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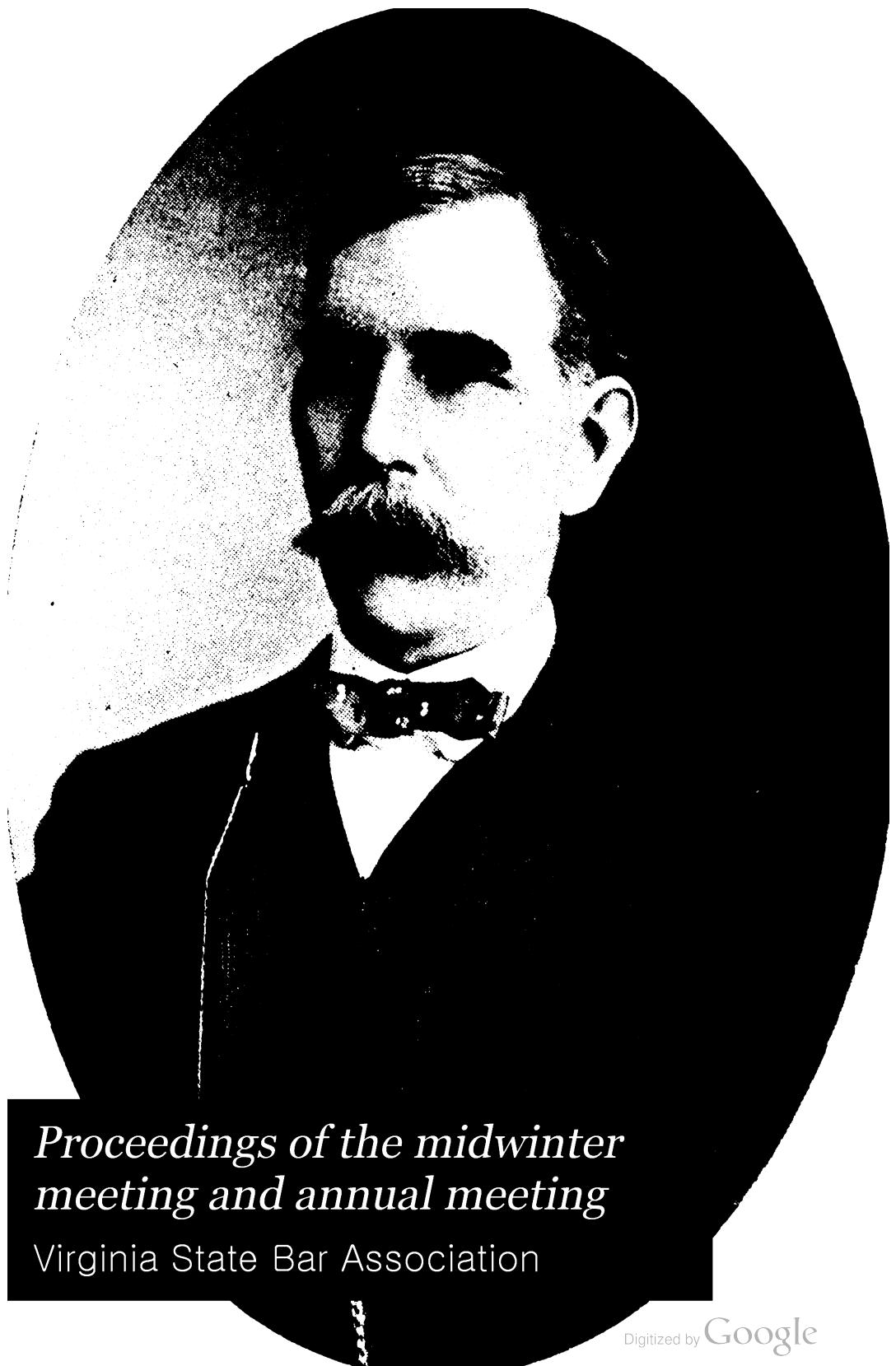
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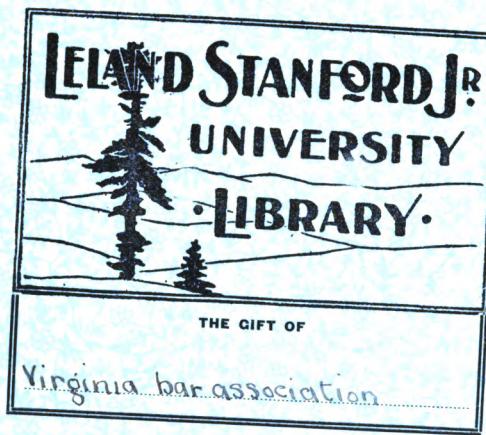
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*Proceedings of the midwinter
meeting and annual meeting*

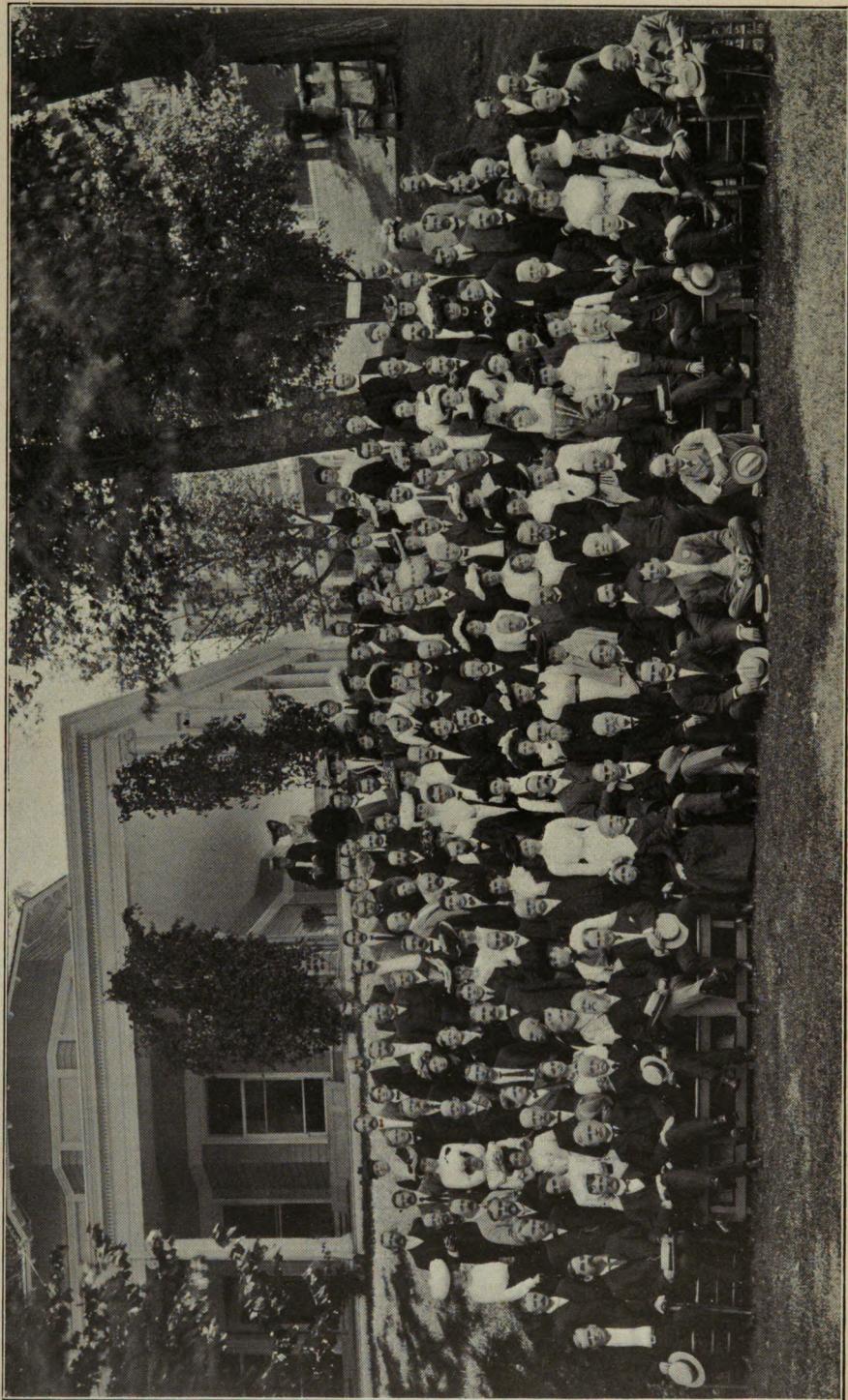
Virginia State Bar Association



Virginia bar association

SOME OF US

AUGUST 7, 1902



REPORT

on

Fourteenth Annual

Virginia State Bar Meeting

Hot Springs

Hot Springs of Virginia

August 5, 6 and 7, 1902

PUBLISHED BY

EUGENE C. MASSIE

OF THE RICHMOND BAR

RICHMOND,
EVERETT WADDEY CO.

1902

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LOS ANGELES, CALIFORNIA

REPORT

OF THE

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OF THE

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Members Registered at the Fourteenth Annual Meeting

ADAMS, R. H. T., JR.	Lynchburg.
AIKEN, A. M.	Danville.
ANDERSON, GEORGE K.	Clifton Forge.
ANDERSON, JAMES LEWIS	Richmond.
ANDERSON, WILLIAM A.	Lexington.
ATKINSON, WILLIAM M.	Winchester.
BARBOUR, JOHN S.	Culpeper.
BARRETT, W. E.	Newport News.
BARTON, ROBERT T.	Winchester.
BLAIR, HENRY E.	Salem.
BOOTHE, GARDNER L.	Alexandria.
BRAXTON, A. C.	Staunton.
BROWN, CALLOWAY	Bedford City.
BRYAN, GEORGE	Richmond.
BRYAN, JOHN STEWART	Richmond.
BUFORD, EDWARD P.	Lawrenceville.
BYRD, H. H.	Warm Springs.
CANNON, JAMES E.	Richmond.
CARSON, J. PRESTON	Richmond.
CARTER, JOHN W.	Martinsville.
CARTER, THOMAS N.	Richmond.
CHRISTIAN, FRANK P.	Lynchburg.
CHRISTIAN, GEORGE L.	Richmond.
CHRISTIAN, THOMAS D.	Lynchburg.
COCKE, LUCIAN H.	Roanoke.
COKE, JOHN A.	Richmond.
CORBITT, JAMES H.	Suffolk.
CRUMP, BEV. T.	Richmond.
CUMMING, S. GORDON.	Hampton.
DANIEL, JAMES R. V.	Richmond.
DANIEL, JOHN W.	Lynchburg.
DAVIS, RICHARD B.	Petersburg.
DUKE, R. T. W., JR.	Charlottesville.
ECHOLS, EDWARD	Staunton.
EDMUND, JAMES E.	Lynchburg.

ELDER, THOMAS C.	Staunton.
ELDER, FITZHUGH	Staunton.
FRICK, GEORGE A.	Norfolk.
FLOOD, H. D.	Appomattox.
GARNETT, THEODORE S.	Norfolk.
GARRETT, H. L.	Covington.
GLASGOW, FRANK F.	Lexington.
GRAHAM, SAMUEL C.	Tazewell.
GRATTAN, GEORGE G.	Staunton.
GRAY, A. A.	Palmyra.
GRIFFIN, SAMUEL	Bedford City.
GRINNAN, DANIEL	Richmond.
GUY, JACKSON	Richmond.
HAAS, TALFOURD N.	Harrisonburg.
HALL, HARVEY T.	Roanoke.
HAMILTON, ALEXANDER	Petersburg.
HANCKEL, ALLEN R.	Norfolk.
HANCKEL, LOUIS T.	Charlottesville.
HANCKEL, LOUIS T., JR.	Charlottesville.
HANGER, MARSHALL	Staunton.
HAENNSBERGER, J. S.	Harrisonburg.
HARPER, FRED.	Lynchburg.
HARRISON, GEORGE M.	Staunton.
HARRIS, JOHN T.	Harrisonburg.
HENSON, WALLER J.	Pearisburg.
HOLT, HENRY W.	Staunton.
HOWARD, JOHN, JR.	Richmond.
HULL, DAVID DENTON, JR.	Bristol.
HUTTON, F. B.	Abingdon.
HUNDLEY, GEORGE J.	Farmville.
IRVINE, R. T.	Big Stone Gap.
JACKSON, E. HILTON	Washington, D. C.
JAMES, ROBERT G.	Clifton Forge.
JOHNSON, JOHN M.	Alexandria.
JONES, WILLIAM A.	Warsaw.
KEITH, JAMES	Warrenton.
KELLY, JOSEPH L.	Bristol.
KILBY, WILBUR J.	Suffolk.
LANDES, W. H.	Staunton.
LETCHER, S. H.	Lexington.
LEWIS, JOHN H.	Lynchburg.
LEWIS, L. L.	Richmond.
LILE, WILLIAM M.	Charlottesville.
MASSIE, EUGENE C.	Richmond.

MCALLISTER, J. T.	Hot Springs.
MCALLISTER, WILLIAM M.	Warm Springs.
MCCORMICK, MARSHALL	Berryville.
MC CUE, J. SAMUEL	Charlottesville.
McDANNALD, A. H.	Warm Springs.
MCINTOSH, GEORGE	Norfolk.
MEARS, OTHO F.	Eastville.
MEREDITH, WYNDHAM R.	Richmond.
MONCURE, WILLIAM A.	Richmond.
MONTAGUE, A. J.	Danville.
MONTAGUE, E. E.	Hampton.
MOON, JOHN B.	Charlottesville.
MOORE, C. F.	New York.
MORRIS, GEORGE W.	Charlottesville.
MULLEN, J. M.	Petersburg.
NICOL, C. E.	Manassas.
NORTON, J. K. M.	Alexandria.
PATTESON, S. S. P.	Richmond.
PATTERSON, A. W.	Richmond.
PATRICK, WILLIAM	Staunton.
PEERY, GEORGE C.	Wise.
PENDLETON, E. M.	Lexington.
PERKINS, GEORGE	Charlottesville.
PETTIT, PAUL	Palmyra.
POLLARD, JOHN GARLAND	Richmond.
PRENTIS, ROBERT R.	Suffolk.
RANSON, THOMAS D.	Staunton.
REVERCOMB, GEORGE A.	Covington.
ROBERTSON, EDWARD W.	Roanoke.
ROBINSON, CLARENCE W.	Newport News.
SCOTT, CHARLES LANDON	Amherst.
SCOTT, R. CARTER	Richmond.
SINCLAIR, G. B.	Charlottesville.
SMITH, H. M., JR.	Richmond.
SMITH, WILLIS B.	Richmond.
STEPHENSON, JOHN W.	Warm Springs.
STICKLEY, E. E.	Woodstock.
STEODE, AUBREY E.	Lynchburg.
TENNANT, W. BRYDON	Richmond.
THOMAS, R. S.	Smithfield.
TUCKER, H. ST. GEORGE	Lexington.
VANCE, W. R.	Lexington.
WALKER, GEORGE E.	Charlottesville.
WHITTLE, S. G.	Martinsville.

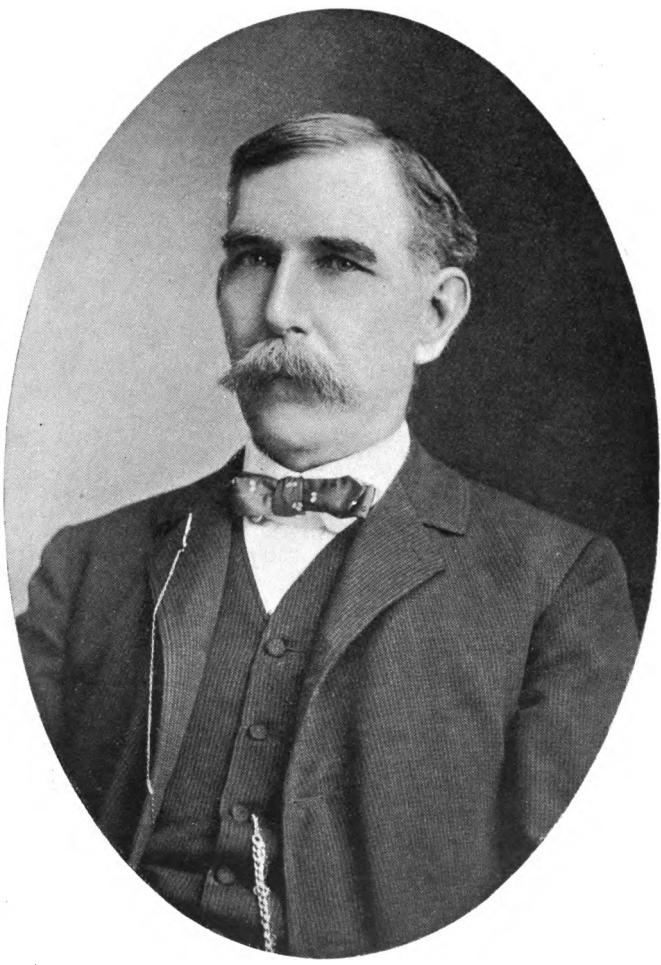
WILLARD, JOSEPH E.	Fairfax.
WILLIAMS, JOHN G.	Orange.
WILLIAMS, THOMAS N.	Clarksville.
WINBORNE, R. W.	Buena Vista.
WISE, GEORGE NELMS.	Newport News.
WRIGHT, T. R. B.	Tappahannock.

Total registered..... 129.

New Members Elected Since the Thirteenth Annual Meeting

ATKINSON, HENRY A.	Richmond.
BUFORD, EDWARD P.	Lawrenceville.
BYRD, H. H.	Warm Springs.
CAMPBELL, PRESTON W.	Abingdon.
CARTER, JOHN W.	Martinsville.
ELDER, FITZHUGH	Staunton.
GILLISPIE, BARNER	Tazewell.
GOODMAN, LEON	Lynchburg.
GREEVER, EDGAR LEE	Tazewell.
HAMILTON, ALEXANDER DONNAN	Petersburg.
HOWARD, JOHN, JR.	Richmond.
JOHNSON, JOHN M.	Alexandria.
LACY, R. T.	Richmond.
MANN, RICHARD H.	Petersburg.
MCDANNALD, A. H.	Warm Springs.
PEERY, GEORGE CAMPBELL	Wise.
PENICK, PAUL M.	Lexington.
RIXKEY, C. J., JR.	Culpeper.
SCOTT, ROBERT E.	Roanoke.
SHELTON, JAMES L.	Richmond.
SINCLAIR, G. B.	Charlottesville.
SLEMP, C. B.	Big Stone Gap.
SMITH, H. M., JR.	Richmond.
ST. CLAIRE, GEORGE WALKER	Tazewell.
TALLEY, ROBERT H.	Richmond.
WAYT, HAMPTON H.	Staunton.

Total 26.



R. B. DAVIS

Transactions
OF THE
FOURTEENTH ANNUAL MEETING
OF THE
Virginia State Bar Association
HELD AT
HOT SPRINGS OF VIRGINIA
AUGUST 5, 6 AND 7, 1902

Hot Springs of Virginia

TUESDAY, August 5th, 1902.

Mr. Richard B. Davis, of Petersburg, Chairman of the Executive Committee, called the Association to order at 11 o'clock A. M., and said:

Gentlemen of the Bar Association, ladies and gentlemen: As Chairman of your Executive Committee, it becomes my pleasing duty to call this Association to order in its Fourteenth Annual Session. In doing so, I desire first to congratulate the Association on the very happy choice displayed in the selection of a place to meet, and also to welcome all of you to our meeting.

In accordance with the by-laws, the Executive Committee have secured gentlemen to read papers; and we have been very

fortunate in obtaining the services of very accomplished lawyers, whose papers we know will be most pleasant and profitable.

With the memories of our Association upon us, and with these pleasant surroundings, we have every promise of a happy reunion, which I hope will be verified by every member of the Association.

The committee have tried to discharge their duties, and it now only remains to turn over the further control of this meeting to other officers. It is my very pleasant duty to introduce to you Major Thomas C. Elder, of Staunton, your President, who will now read his address. (Applause.)

Major Thomas C. Elder, President of the Association, then read his address.

(See Appendix.)

The President then announced the following committees:

Committee on Publications—W. O. Skelton, Richmond; Charles Hall Davis, Petersburg; John B. Cochran, Staunton.

Committee on Memorials—W. G. Robertson, Roanoke; John Goode, Bedford; Rufus A. Ayers, Big Stone Gap; John T. Harris, Jr., Rockingham; Gardner L. Boothe, Alexandria; L. L. Lewis, Richmond; E. E. Montague, Hampton; R. H. Cardwell, Hanover; R. G. Southall, Amelia.

Committee to Recommend Officers—John A. Coke, Richmond; Thomas D. Ranson, Staunton; Alexander Hamilton, Petersburg; L. T. Hanckel, Charlottesville; Joseph L. Kelly, Bristol.

The President: The next business in order is the report of the Secretary and Treasurer.

Mr. Eugene C. Massie, of Richmond: Mr. President and gentlemen, we began the year with 486 members—442 active and 44 honorary. Since then we have lost, by death, twelve members—11 active and 1 honorary; five have resigned; three have been dropped for the non-payment of dues; one has left the

State and one has been transferred to the honorary list; so that we now have 464 members. The accounts of the Treasurer have been duly audited. They show receipts of \$3,245.96, including a balance of \$989.79, with which the year began; and disbursements of \$2,138.88, leaving in the treasury a balance of \$1,107.08 as of the 1st of August, 1902.

The President: Next is the report of the Executive Committee.

Mr. Davis: That report is not ready now, but it will be presented later in the session.

(See report at end of Minutes.)

The President: Next is the report of the Committee on Admissions.

Mr. E. E. Stickley, of Woodstock, Chairman of the Committee on Admissions, read the first report of that committee.

(See report at end of Minutes.)

The President: The report of the Committee on Legislation and Law Reform is next in order. (No response.) We will proceed to the report of the Judiciary Committee. (No response.) Next is the Legal Education and Admission to the Bar. (No response.) The Committee on Library and Legal Literature. (No response.) The Committee on Presentments. (No response.) The Committee on Grievances. (No response.) The Committee on International Arbitration. (No response.) I want to make an announcement, which refers as well to the gentlemen who have been recently elected. It is that the Secretary will be glad to see them at his office, as it will be necessary for him to have a perfect list of those present in order to make preparations for the banquet. It will save the Secretary of the Association a great deal of trouble if the members will take heed to that announcement.

Mr. Massie: Mr. President, I would like to urge upon all the members the necessity for prompt attendance upon all meet-

ings, particularly those at night. We have two distinguished speakers—Mr. Tucker to-night and Senator Daniel to-morrow night—and the ladies are anxious to get this room for dancing. It will facilitate matters very much indeed, if you will assemble promptly, in order that the room may be vacated at an early hour.

The President: I remember last year, at Old Point, the great difficulty we had to get the members to attend the evening sessions promptly. The gentlemen do not appreciate the importance of the meeting beginning on time. Let us start promptly and get through early.

On motion, a recess was taken to 8:30 P. M.

EVENING SESSION

Hot Springs of Virginia

TUESDAY, August 5th, 1902.

The Association was called to order at 8:30 P. M.

The President: We shall have the pleasure this evening of listening to a paper read by a gentleman who recently filled the chair of International and Constitutional Law in Washington and Lee University, and reflected honor on the chair. He is the distinguished son of an honored sire, and he bears a name which has been connected with the judicial history of Virginia for many generations. I announce the Honorable Henry St. George Tucker. (Applause.)

Mr. Tucker then read his address.

(See Appendix.)

The President: Gentlemen of the Association, there seems to be no more work ready for us to-night. I think we had better

meet in the morning at 10 o'clock, and let us understand that 10 o'clock means 10 o'clock by Eastern time. I hope the members of the Association will be prompt in their attendance.

On motion, a recess was taken to 10 o'clock A. M. Wednesday, August 6, 1902.

SECOND DAY

Hot Springs of Virginia

WEDNESDAY, August 6th, 1902.

The Association met at 10 o'clock A. M.

The President: Gentlemen of the Association, the indefatigable and invaluable Chairman of the Committee on Admissions usually has the floor when he wants it, and he will occupy our attention for a few minutes while he makes a report on the admission of new members.

Mr. Stickley then read the second report of the Committee on Admissions.

(See Report at end of Minutes.)

The President: We are about to have the pleasure of hearing a paper on a very important subject by a distinguished member of the Association. But before he proceeds, I wish to say to the Association that, after that paper has been read, there is some business before us which will not take long but which is very important, and I must beg that the members will remain and attend to this business. I have no doubt that it will be the inclination of many to retire and to congratulate the writer of the paper and to discuss it on the outside; but we must attend to the business of the Association. No one appreciates the social feature of these meetings more than I do, but we must also

look to the business side of the Association, and, therefore, I earnestly request that the members of the Association will remain after the paper is read.

I have the pleasure now of announcing the Honorable Theodore S. Garnett, of Norfolk, who will read us a paper on "The Impeachment and Trial of Andrew Johnson." It is useless for me to invite your attention to this paper; I think it will engage your attention without remark from me. (Applause.)

Judge Garnett then read his address.

(See Appendix.)

The President: The report of the Committee to Recommend Officers is now in order.

Captain John A. Coke, of Richmond, read the report, as follows:

The Committee appointed to Recommend Officers for the ensuing year respectfully recommend the following:

For President—Samuel C. Graham, of Tazewell.

For Vice-Presidents—Southwest, William Gordon Robertson; Southside, William B. McIlwaine; Piedmont, John G. Williams; Tidewater, William H. White; Valley, Marshall McCormick.

For Secretary and Treasurer—Eugene C. Massie, of Richmond.

For New Members of Executive Committee—A. W. Patterson, Richmond; Wyndham R. Meredith, Richmond; Alfred P. Thom, Norfolk, to fill the vacancy caused by the resignation of J. Stewart Bryan.

For Delegates to American Bar Association—S. S. P. Patterson, Richmond; W. R. Vance, Lexington; H. St. George Tucker, Lexington.

On motion, the report of the Committee was adopted and the

Secretary instructed to cast the ballot of the Association for the officers named.

The President: The report of the Special Committee on the Torrens System is now to be submitted. Mr. Massie is Chairman of that committee.

Mr. Eugene C. Massie: Mr. President and Gentlemen of the Association: I shall detain you but a few minutes in making this report. Three years ago, when a resolution was offered in this place for the appointment of a special committee to investigate this subject and report to the Association, it attracted very little attention. In 1900, the committee made its first report. In February, 1901, a joint resolution was passed by the General Assembly of Virginia, appointing a committee of three to draft a bill for its consideration. In August, 1901, your committee made its second report; and then it was enlarged and the new committee directed to confer with the Judiciary Committee of the Constitutional Convention and to take such steps as might seem proper to them. That committee discharged the duties imposed upon it, and, in consequence of its action, we now have in our new Constitution:

"Sec. 100. The General Assembly shall have power to establish such court or courts of land registration as it may deem proper for the administration of any law it may adopt for the purpose of the settlement, registration, transfer or assurance of titles to land in the State or any part thereof."

We thus now have in our fundamental law a provision for the establishment and administration of such a system as may hereafter be adopted by the General Assembly.

The Torrens System has been adopted and is now in operation in five States of the Union—Illinois, California, Massachusetts, Minnesota and Oregon. It is pending in the District of Columbia and seven States, in which some legislative action either has already been taken or is proposed, to-wit: Colorado, Iowa, Nebraska, Rhode Island, Virginia, Wisconsin and Michi-

gan. It has been under discussion in the Bar Associations of nine States, to-wit: Maine, Missouri, New Mexico, Kentucky, Pennsylvania, North Dakota, Tennessee, Texas and West Virginia.

At our last meeting, when this matter was up for discussion, the most interesting point was that concerning due process of law, and some of the gentlemen who spoke on that occasion expressed grave doubts as to whether any system could be devised that would meet the requirements of the Federal and State Constitutions in that regard. These questions have been answered by the Supreme Court of Massachusetts, and the case went to the Supreme Court of the United States, where the decision was affirmed; and, more recently, they were answered by the Supreme Court of Minnesota. With your permission, I will read an extract from the Minnesota decision in the case of *State vs. Westfall*, reported in 89 Northwestern Reporter, page 175; also *Central Law Journal*, Vol. 15, page 290:

"Actions and proceedings to conclusively establish rights and titles against all claimants and parties, known and unknown, are not novelties in our jurisprudence, for decrees probating wills, distributing estates of deceased persons, quieting title to real estate against unknown heirs and unknown parties, have been repeatedly held to be conclusive on the whole world. It is now the settled doctrine of this court that the District Courts of this State may be clothed with full power to inquire into and conclusively adjudicate the state of the title of all land within their respective jurisdictions, after actual notice to all of the known claimants within the jurisdiction of the court, and constructive notice by publication of the summons to all other persons or parties, whether known or unknown, having or appearing to have some interest in or claim thereto. The proceeding provided for by the act in question is such an one. It is substantially one *in rem*, the subject matter of which is the state of the title of land within the jurisdiction of the court, and the provisions of the act for the serving the summons and giving notice of the pendency of the proceedings are full and complete, and satisfy both the State and Federal Constitutions. To hold otherwise would be to hold that the courts of this State

cannot in any manner acquire jurisdiction to clear and quiet the title to real estate by a decree binding all interests and all persons or parties, known or unknown, for the provisions of this act are as full and complete as to giving notice to all interested parties as it is reasonably possible to make them."

This subject has now been for three years before this Association, and, while action has been taken from time to time upon it, no final action has yet been taken by this Association. It remains to be seen at this meeting whether, after the discussion we have had, and after the years of labor and study and investigation, the Association is now prepared to act. But whether the Association acts or not, I must express the conviction that it will not be long before we have upon our statute books a comprehensive act for the establishment and administration of this Torrens System. Time and again you have had before you, presented in various ways, the advantages which would accrue and the benefits which would be conferred by the system upon all the people of our Commonwealth, and particularly those who own lands; and I trust it may be the pleasure of the Association at this time to take final action and to express its cordial approval of the work of its committee and of the general principles of the Torrens System.

A Member: What does the committee recommend—that the Legislature should pass such an act?

Mr. Massie: Yes, sir. I did not like to offer the resolution, for fear I should be considered as riding a hobby. I would prefer that the resolution should come from some other member of the Association. I am now engaged in preparing an act which I shall present to the next session of the Legislature. If this Association will endorse the action of the committee up to this time, and will declare its approval of the system and recommend the passage of some proper act by the Legislature, I think that is all that can now be done.

Mr. Willis B. Smith, of Richmond: Mr. President, I would suggest, for the consideration of the Association, that we are

going a little too fast. As I understand it, while some very few States have adopted the Torrens System, as a matter of fact it is distinctly adopted and in use in very small portions of those States, and it is met by all sorts of questions. Our people are more conservative than the people of other States, and I think we are rushing too fast.

The President: I would suggest to the gentleman that there is nothing before the Association just now, and probably he had better defer his remarks until a resolution is submitted.

Mr. John M. Johnson, of Alexandria: Mr. President, I offer the following resolution:

Resolved, That it is the sense of the Virginia State Bar Association that the General Assembly of Virginia should enact the proper legislation for the establishment of the Torrens System in Virginia, or in such portions thereof as it may deem wise and proper at this time.

The President: This resolution is before the Association for consideration.

Mr. Willis B. Smith: Mr. President, I did not propose to discuss this matter especially. I just rose to say that I thought we were rushing too fast. I do not know very much about this system, but I have heard a great deal of it from its advocates, and it seems to me that we are rushing too fast, because our resolution ought to have influence with the Legislature, and I don't believe that one in ten of this body is prepared to say what particular act he would recommend. We will be going before the Legislature and asking them to do this thing, when, from what I hear from the advocates of the system, it is still, in probably ninety-nine one-hundredths of the United States, an untried experiment.

Mr. W. M. McAllister, of Warm Springs: Mr. President, I feel convinced that the adoption of such legislation would be beneficial to our section of the State, but I want to call attention

SECOND DAY

again to the statements I made at the last meeting of the Association. There is nothing so timid as a buyer. We have vast tracts of undeveloped property, the titles out by chancery proceedings here to give the purchaser a title off. We need something here to straighten us to develop this undeveloped part of our State.

Judge George L. Christian, of Richmond: Mr. President, it seems to me that this matter has been before the Association long enough for the members to become acquainted with their fault. Several gentlemen, amply capable to perform that duty, have examined into this matter for two or three years and if they are not acquainted with it, it is their misfortune. Surely the Association cannot do any especial injury by recommending this system to be applied in such parts of the State as the General Assembly may deem best. It seems to me that the General Assembly may apply it in such parts of the State as it may be desired. I am in favor of recommending that the General Assembly may establish it in such parts of the State as it may be desired. I do not believe that can do any harm, and it may do a great deal of good, and for that reason I second the resolution.

Mr. Thomas N. Williams, of Clarksville: Mr. President, I hope some gentleman will explain this matter more particularly. I am not sufficiently posted to vote on it. I was not at the meeting, and am not familiar with it, and I hope some gentleman will explain it.

The President: I would remind the gentleman that reports of the Association for the last two or three years contain a pretty full account of this matter, and there was quite a consideration of it at the last meeting at the White Sulphur Springs. Still, if any one wishes to explain, or will explain, the salient

features of the system for the accommodation of the gentleman from Mecklenburg, he can do so.

Mr. Massie: I will take great pleasure in giving the gentleman some literature, if he will drop by my office.

Mr. Williams: I understand the question is to be voted on now; it will be too late afterwards to get the information from the Secretary. It may be a good thing; gentlemen in whom I have the greatest confidence seem to think so, but others seem to want to know more about it.

Mr. Massie: Mr. President and gentlemen, I have, on various other occasions, attempted to explain this system in my own way, and now, at the request of the gentleman who has just spoken, I will read from the report of the Committee on Legislation and Law Reform of the Michigan State Bar Association in advocacy of the movement in that State. The advantages were set forth under four heads. This extract has been published very recently in the *Law Register*, at my instance, but it is such an excellent statement I will read it for the benefit of the gentleman from Clarksville and others who may not have seen it.

"I.

"The Torrens System substitutes for the present system of registering deeds a system of registering titles. Instead of an ever-lengthening list of deeds to be examined by a lawyer, whose opinion as to the validity of the title conveyed is often the purchaser's sole guaranty, is substituted a certificate as simple as a certificate of stock, showing on its face in whom the title is vested, and also all the liens or other interests existing in the premises in question. The correctness of this certificate is guaranteed by law.

"II.

"The evils of the present system are manifest, particularly in large cities and in the older communities. These are:

"1. Expense. The cost of the abstract, or its continuation, and the opinion of counsel thereon upon every transfer.

"2. Delay. This may extend to several months, the time being spent to procure abstract and deeds to fill the gaps in the chain of title and in negotiating as to claimed defects.

"3. Insecurity. Errors may and often do exist in the abstract. They may and do also exist in the opinion of counsel.

"4. The constantly lengthening chain of deeds to be examined constantly increases the expense, delay and insecurity.

"5. These defects operate as a perpetual tax upon the holder of real estate, depreciate its value and make it notoriously a 'slow' asset.

"III.

"Actual experience has demonstrated that the Torrens System will correct all these defects.

"1. The expense of the initial registration does not exceed the cost of a single transfer under the present system. In all subsequent transfers the expense will be much less than now. In ordinary cases the total expense would not exceed two dollars.

"2. Speed. In the generality of cases, the transfer or mortgage, including the examination of title, all may be completed within an hour.

"3. The title is rested or quieted at every transfer; there is no long chain of deeds to be examined; the chance for error is eliminated; and the title, as transferred, is guaranteed not only by the seller's warranty, but by the law.

"4. The records are shortened. No deeds are recorded. The original or duplicate deed is filed and left with the registrar.

"5. This safe, short and inexpensive method of transfer increases the value of the land and makes it a 'quick' asset."

Mr. Massie: If you want to borrow money on your real estate now, you have to record a deed of trust, which notifies all the world that you are borrowing money in the market, and not only injures the credit of the borrower, but may injure the value of the real estate. Under this system it is possible to have transactions with real estate somewhat as with personal prop-

erty, and you need not always take the public into your confidence whenever you have such transactions. I read further from the report:

"IV.

"The principles of the Torrens System are:

- "1. A public examination of title in the United States by a court of competent jurisdiction.
- "2. A registration of the title found upon such examination.
- "3. Issuance of a certificate of title.
- "4. Re-registration of title upon every subsequent transfer.
- "5. Notice on the certificate of any matter affecting a registered title. Claims not registered have no validity.
- "6. Indemnity against loss out of an assurance fund."

I trust this succinct and admirable statement may give the gentleman from Clarksville such information as he desires; and if he will examine the certificate of title I now hand him from Australia, it will cast further light upon the subject. Such a certificate affords the best illustration of the advantages of the system. Any one can tell from it at a glance the exact state of the title, and every one can rely upon the facts set forth therein.

Mr. George Bryan, of Richmond: Mr. President, I hope it will be the pleasure of the Association to adopt the motion of the gentleman from Alexandria. I do not know what the ideas of Mr. Smith are about rushing. I have been a member of the Association for about four years, and it seems to me that we have been lulled to sleep at every meeting by the Torrens System. Every member of the Association is charged with actual or constructive notice of the Torrens System, because the literature is there, and if any one does not know what the Torrens System is, it is not the fault of the Association. Therefore, I do not think the motion is chargeable with the objection of being too speedy in its nature.

Another point is this—and I can speak from a little experience on the subject: It is a recommendation to the Legislature, that is all. I had a measure here last year which I

wished to obtain legislative action upon, and I was mindful of the fact that the endorsement of the Association would carry some weight—at least, I thought it would. I presented it to the proper committee of the Legislature, and was advised not to present it as coming from the Association, because it would then be at once regarded with suspicion, that it would be thought that the lawyers had some “cat in the meal-tub,” and were trying to strangle the rights of the people of Virginia by some measure which they had considered carefully beforehand, but which the Legislature did not understand. Acting upon this suggestion, I said nothing about the Association, but introduced it to the Assembly on its own merits, and it was promptly passed by both branches. Therefore, I say that if there is anything in the measure to-day, the recommendation of the Association would be death to the measure when it came before the Legislature, and consequently I see no harm that can come, except to the measure itself, from such action; and as its proponents and patrons request us to act, I think we will be taking no radical steps in giving it our approbation at this stage, or dropping it into the depths.

Mr. Jackson Guy, of Richmond: Mr. President, I cannot help feeling that if the Association adopts the resolution which has been offered, it will be hasty action. Our deliberations should certainly have the force of due consideration, and of some perfect need and necessity behind them. We are dealing professedly with something which is an experiment. I feel myself totally incompetent to judge of its merits, either for good or for bad. But I do feel, sir, an increasing hesitation to give my voice, and particularly the voice of this influential and dignified body of our State, to some measure of purely untried expediency. This plan of dealing with land titles, which must be a total revolution in everything we have been accustomed to, has been introduced, our friend informs us, in five States of the Union in the last five or ten years; but those are such States as are adapted to the making of such experiments. I hardly think that old Virginia, with its conservatism, is prepared to take any such step. We were told, sir, in the

delightful address we had from you on yesterday, that the State of Massachusetts, which is the leader in the adoption of the Torrens System, has wealth surpassing anything we have in Virginia. They can afford experiments; their experiments may succeed or they may fail, and it will not hurt them.

But what impresses me is, as Mr. Massie has just informed us, that under the Torrens System a negotiation may be effected with real estate without publicity. That, sir, constitutes the crowning objection to the system, in the beginning, certainly, to my mind. I will undertake to say that no one can controvert the proposition that all of our economic laws dealing with real estate and with tangible personal property are based upon the supposition that the party who is in possession of such property is the owner of that property, and that as such it constitutes a basis of credit for him, and that any one who deals with the party who is in possession is entitled to assume that that party owns that property, unless what? Unless the public records of the judicial division of the State in which the property is situated discloses to the public that there is a lien upon it. Now, sir, it seems to me that the Virginia Bar Association, in going to the Legislature with it, must be conceded the slight consideration we have given to this subject, and presuming to advise a total change in all our laws on the subject of the registry of lands, would be doing a thing which we should hesitate some time before we attempt to do.

I shall be very glad to see the Torrens System ventilated in this State, its merits and demerits discussed, and I think we would be imprudent and hasty and subject to criticism ourselves, if we, with the little we know about it, advise the Legislature to incorporate it into our system of laws and subvert all that we have had during the ages on the subject of liens on property.

Mr. John S. Barbour, of Culpeper: Mr. President, I am inclined to favor the Torrens System, but I certainly sympathize with those gentlemen who say that they do not know enough about it now to endorse it. In other words, when I endorse anything, I want to know what I am endorsing. A bill

might be drawn establishing the Torrens System which we all might be willing to support, and at the same time another bill might be drawn establishing it which none of us might be willing to support. Therefore, I think it wise that before the Association endorses it, we ought to have a little more consideration of what we are endorsing. It seems to me that the way to arrive at that is to have something definite before the Association, something setting out the details of this measure, so that we can know what we are acting on. We might recommend this resolution, and the General Assembly might adopt something that might be called the Torrens System, but totally at variance with the idea of the Association in adopting this measure. I would, therefore, suggest that this matter be referred to a committee for the purpose of drawing a bill, with directions to report to our next meeting, and to that end I offer this resolution, as a substitute for the resolution offered by the gentleman from Alexandria:

Resolved, That a committee be appointed to draft a bill looking to the establishment of the Torrens System in Virginia, and report the same to the next meeting of this Association for its approval or disapproval.

Mr. John M. Johnson: Mr. President, the resolution I have offered simply approves the principles of the Torrens System. I would not, as a member of this Association, like to endorse any specific measure, because it might not be a measure which would meet the difficulties which the Torrens System proposes to remedy. This resolution of mine is about as conservative a measure as this body can pass on this subject. It is simply a new departure, it is an experiment, and I am not one of those who believe that anything new is bound to be injurious. I am in favor of this, because I think it will remedy a great evil in our section of the State. The resolution provides that the Legislature may put this system into effect in such portions of the State as may be desirable or as may wish relief. I, for one, speaking for my district, would say that Alexandria is willing to make the experiment for the benefit of the State at

large. With this resolution we simply express that we believe that the principles of the Torens System are such that they can be put in the form of legislation which will remedy great evils not only in this section of the State, as we are informed by a gentleman here, but also in the lower portions, such as that which I hail from. Therefore, I do not want any specific measure recommended by this Bar Association, and I would oppose such. I simply want to recommend the principles of the system, and let the Judiciary Committee, or other appropriate committee of the Legislature, work it out and present, as their work, the details and particulars of such a bill.

Mr. A. W. Patterson, of Richmond: Mr. President, I fully concur in the views expressed by the member who has just taken his seat. I, for one, would be opposed to committing myself to any particular measure that might be submitted here, with the limited time at our disposal for considering such a measure. I think our recommendation would have more force in the form of the resolution of the gentleman from Alexandria, than in the form proposed by the gentleman from Culpeper. As has been already stated, anything emanating from this body seems to be rejected by the Legislature, and if we leave something to their discretion, the system is more likely to be adopted; if we simply adopt the general principles of this Torrens System and leave the details to be worked out in their discretion, I think they will be more apt to take hold of it and make it their own. It would be better, besides, to have such a measure adopted as may be needed in any section of the State, than for us to go to them with some particular bill.

As to the objection urged by one or two of my friends here, that we are not sufficiently familiar with the Torrens System to take any action upon it at all at this time, I would like to say that I have listened attentively to, and read with care, the several reports and speeches addressed to the Association on this subject and have been greatly impressed by them. Since the subject has been introduced here, I have noticed that a number of magazines and periodicals that come to my office have paid special attention to this matter. A number of very intelli-

gent and able articles have appeared on the subject, and the study of those articles enlightened me very much, and I had hoped that those articles had come to the attention of the members of the Association and that they had examined them and would be prepared to act at this time. I have noticed that in those States where the system has been adopted and in force for a number of years, the people seem to be very much pleased with it; and in two States where legal objections were made and sustained, the Legislatures had become so much in love with the system that they at once went to work to remedy the objections and have rectified the faults. Several years of working under this new system and testing it have only served to fasten it in the affections of the people; they regard it as a good thing, and regard it as a long step forward in our practical civilization. I believe that any suggestion in those States now to abolish that system, or to take any step backward, would be met with resentment. I do hope that there will be no further delay in this matter among us.

Mr. W. M. Lile, of University of Virginia: Mr. President, if the Torrens System possesses the features referred to by my friend, Mr. Guy—that it encourages pocket titles and secret liens—I have been very much misinformed on the subject, and I heartily concur with him that the Association should vote down the system if it has anything of that sort. I should like to know from Mr. Massie if it is true that the Torrens System is open to objections of that sort and that the public is likely to be misled.

Mr. Massie: Mr. Chairman, I will make this reply. Every transaction intended actually to pass title to real estate under the Torrens System must be noted upon a certificate such as I hold in my hand, which is called the "Duplicate Certificate," and which the owner keeps himself, and must also be noted upon an exact copy of this certificate which is recorded in the office of the Register. In that respect there can be no transaction with real estate without publicity. But if I am the owner of real estate registered under

the Torrens System, before I can pass or encumber the title to my land, I must produce, at the office of the Register, my duplicate certificate. If I fail to produce it, I must, under such regulations as may be provided by law, similar to those setting up the loss of instruments under our present statutes, prove that the duplicate has been lost or destroyed, in order that another may be issued to me. Suppose I have such a certificate as this in my pocket, and I want to borrow five hundred dollars, or a thousand dollars, or ten thousand dollars on my property; I can take this certificate and go to my bank or to any one who is willing to lend me the money and say: "Will you accommodate me with a loan?" He would say: "On what security?" I would say: "This real estate." And a simple inspection of the certificate would show him exactly what he had to deal with, revealing with absolute certainty, not only the property, but my title thereto. I can deposit this certificate with my bank or banker for security, and when I have done that, I have tied my hands from any further dealings with that land.

Mr. John T. Harris, of Harrisonburg: Would that transaction be of record in the clerk's office?

Mr. Massie: Not unless the banker chose to make it so. No deed I might make could affect the title without production of the certificate and I could have no other transactions with that land with any one else without producing the certificate. In other words, I can deal with this certificate just as with a certificate of stock, except that the title does not pass by delivery of the certificate, but only by official registration.

What I have said applies to voluntary transactions by the owner. When he parts with his certificate he parts with the power to do any other voluntary act to affect the title. But the secret pledge of a certificate will not affect any involuntary lien or charge upon the title. The system does not encourage nor permit "pocket titles and secret liens." On the contrary, it expressly prohibits them, because no title can pass except by the act of official registration. Herein lies a vital distinction: Titles do not pass by deed, but by registration. Deeds are simply

contracts between the parties and only serve as authority to the Register to make an official transfer of the title, or note liens thereon.

Mr. Barbour: Are not all of those matters, matters of detail, which depend upon the ultimate form of the act?

Mr. Massie: Entirely so. Every lien must be noted on this record.

Mr. R. T. Barton, of Winchester: How is the general creditor protected?

Mr. Massie: He is protected just as in other transactions now.

Mr. Barton: No. In other transactions you can go to the clerk's office and examine the record.

Mr. Massie: And under the Torrens System the records may be similarly examined. Now, some other man may have a pocket deed of trust on the property; there is no protection from that under our present law. But under the Torrens System you know that when a man's property is registered, he has a good title to his property; now, when a man has property in his name, you don't know whether he is really the owner of it or not.

Mr. John T. Harris: How does the bank protect itself?

Mr. Massie: By going up to the Register's office and having the transaction noted.

Mr. John T. Harris: Suppose a judgment is gotten and the certificate is on deposit at the bank, how would the judgment creditor ascertain where the certificate is?

Mr. Massie: The registered owner would be required to produce it or to account for it. In the case you mention, this would disclose the holder who would then be required to produce the certificate in order that the lien might be noted. Now, Mr. Chairman, just one word more. I do not see how we can be

accused by anybody of haste. I do not know what this "haste" can be, unless you go by the standard of the old Virginia creeper, a beautiful vine and one that we all admire, it is true—but now we cover our houses rather with the Boston ivy. Because Massachusetts is richer than we, are we to sit in poverty forever and make no effort to take our place by her side? What is Virginia's position to be in the future? Is she to live forever in her past, and to be known always as "The Old Conservative"? Unless we take our place where we belong, we will be placed where we do not belong and will not care to be.

So far as this act is concerned, I do not think it matters much whether this Association passes on it, or not, because the people of this State are behind it; they have had some information, if the members of this Association have not. Constantly I am approached by business men, who say: "I hope the Torrens Act will be passed." And all over this State the people know that there may be some relief afforded to them if the Legislature will only grant it; and the Legislature knows that the people want it, and the Legislature is going to grant it.

Mr. Willis B. Smith: You said a little while ago that the Supreme Court of Massachusetts had sustained this act, and that that decision had been affirmed by the Supreme Court of the United States. Is it not a fact that the decision of the Supreme Court of the United States was on a technicality?

Mr. Massie: It was not decided on its merits, but the result of the decision is practically the same as if it had been decided on its merits. I could read you what Judge Jones, of the Massachusetts Court of Land Registration has to say on the subject, but I will not detain the Association any longer.

Mr. Willis B. Smith: Has the question as to its constitutionality which was raised in the Supreme Court of the United States ever been decided in any State? It stands just as it did last year, doesn't it?

Mr. Massie: It stands just as it did, yes, sir, so far as the Supreme Court of the United States is concerned, for no other

case has gone up to that court and none is likely to go; but the Supreme Court of Minnesota has passed upon it in an elaborate opinion, as already stated by me, in case of *State vs. Westfall*.

Mr. W. M. Lile: Mr. President, I would like to thank my friend for his very full and frank answer to my question. I get a number of law magazines, which have a good deal to say about this system, and I have been struck with the fact that I have never heard or read an adverse criticism of it. Every published article is in favor of it, and everywhere it has been adopted it has been very well received. *Prima facie*, therefore, it is a very good thing. I am heartily in favor of the movement. One thing that especially impresses me, and that I think has not been properly emphasized in the discussion, is the method it offers for quieting titles and assuring the owner a perfect title. Under our present system, if some one comes and turns us out of our house, we have the action of ejectment against him. If we are in possession and know of some particular, definite claim, we can go into equity. But suppose we know there are certain claims outstanding, or suppose we feel reasonably secure in our possession, and yet there are claims against us so shadowy and so uncertain that we cannot go into equity, either because we do not know who the claimants are or what the claim is, so that we cannot make our allegations as certain as the court would require. Under this system, a suit *in rem*, as it were, is brought, and the whole world is notified that this particular property is going through registry. I imagine the statute provides for the service of notice on persons interested, but the whole world is notified, and when the owner gets a certificate he feels absolutely secure against everybody—against the Commonwealth for taxes and against the whole world. Again, the owner of real estate under the present system does not know what mine is under it and when it may explode; under the Torrens System there are no secret mines. We had had the same system for years in the matter of probation of wills; and when a railroad company wants a right of way, it goes along and deposits money in court and takes the

land away from the parties to whom it belongs. It seems to me that in this we are just carrying a little further very ancient and very just ideas.

I got upon my feet not so much to make an argument in favor of the Torrens System as to make an amendment to Mr. Barbour's resolution. I think if we want an act passed through the Legislature we should draft it. This discussion has already developed the fact that we are very much interested in the details of the thing, and if we vote without knowledge of the details, we are voting in the dark. If the resolution of my friend is adopted as offered, we should come back next year as much in the dark as we are to-day; none of us would have seen the report, none of us would have studied it. My motion is that when the report of the committee is completed, it shall be printed, and the Secretary be directed to send a copy of it to every member of this Association.

Mr. Barbour: That is a most admirable amendment and I accept it.

Mr. John T. Harris: Mr. President, I suggest that the report be sent out as soon as completed to the members of the Legislature, and if the Legislature chooses to consider the matter on that report, it can do so and act on it before the Association does, if it desires.

Mr. John M. Johnson: Mr. President, I do not imagine the bill will make it compulsory on any one to register his title; you can proceed under the old system if you desire, but any owner who wishes to register his title can do it; it is voluntary entirely. If we go into principles or details we will be at sea. I do not think this Bar Association can be gotten to approve the details of the bill it sent out. We come here and spend two or three days in social intercourse. We cannot consider the details of the measure, it is impossible. This resolution I have offered does not commit the Association to anything but the Torrens Land System. Something is needed to-day in certain localities which will be an improvement on the old system, and the Torrens System is the only system I am familiar with

for that purpose. I commend to the attention of this Association an article written by one of the most prominent lawyers of Illinois, published in the *American Law Review*. We absolutely need some relief, and if any one can suggest anything more likely to afford that relief than the Torrens System, I will join hands with him in recommending that to the Legislature. We simply recommend the system and let the committee of the Legislature attend to the details; it is their work, not our work; and any member of this body who has any particular matter to present to the Judiciary Committee of the Legislature can go there and present it. They have the time, they are not overburdened with work; let them do the work and present the bill as the wisdom of the committee of the Legislature of Virginia; and I am sure that those communities which desire this law will accept it gladly and willingly. What objection can any man see? We do not affect the city of Richmond. If the city of Richmond does not want this law, it need not have it; but if the city of Alexandria wants the system, under this law she can get it.

Mr. R. T. Barton: Mr. President, I have a suggestion to make, which I think might bring about some concurrence of action without much trouble. I asked Mr. Massie a question by which I did not intend to indicate that I was opposed to the system. I asked him how far a creditor would be protected under this system. He replied that the creditor would be as much protected as he is under the present laws. I think he is mistaken, because under the present system one can refuse to trust a man who has overmortgaged his property. Of course, he runs the risk of trusting a man who is really overmortgaged, but has not put the deed on record. But we are not now considering the details of this proposed measure, and we cannot, even if the bill be drawn by the committee and brought before this body. We are not so constituted as to properly consider details; this body only considers general principles. But I would not be satisfied to recommend any bill adopting the Torrens System without having some opportunity to criticise the details, not before this body, but before the body that enacts it

into law. It seems to me that the practical way is to recommit this subject to the committee that has had charge of it; they are eminently fitted for it, and I believe that any bill they drew I would endorse without looking at it. I suggest now to recommit it to the committee, with instructions to draft and present to the Legislature a bill covering the whole ground, and to publish it, so that the members of the Association can call the attention of the Legislature to anything they object to. I believe by that we can accomplish our object and have it done all at once. I believe that when a matter has been before this Association for four years, we might well take it for confessed; and I think it is rather late in the day to discuss the merits of a system which has been tried, the details of which alone might be subjects of discussion or objection, when we are not so constituted as to be able properly to consider details.

Mr. Johnson: I accept your amendment, subject to this: I want a statement from this Association commanding the principles of the system.

Mr. Barton: Mr. President, it has been suggested that it is hardly practicable to get all of this committee together. Any action that any three of them may take I will follow blindly.

Mr. Barbour: Mr. President, I have no objection to the resolution offered by the gentleman from Winchester alone, but I do object to it with the addendum of the gentleman from Alexandria, because we are endorsing a pig in a bag—we do not know what we are endorsing.

Mr. John T. Harris: Mr. President, I think the Association understands what it is endorsing, which is the general principles of the Torrens System, and it ought to be submitted to the Legislature now, because a general revision of our laws will soon take place.

Mr. Willis B. Smith: Mr. President, it seems to me that the Legislature would very probably treat with contempt the action of this body, if we came before it with a proposition which is substantially, "We don't know anything about this

Torrens System; we think you are in the same fix, and we have sent several eminent lawyers and law professors to tell you about it." I went there with a committee of which Mr. Old, of Norfolk, was chairman. We went there with a well-digested bill, and nearly every proposition we presented to them from the Association in a decent shape they adopted. But if we go there and say to them that we met at the Hot Springs, and we didn't know anything much about the Torrens System, but that we sent a committee there to tell them they ought to adopt it, they will treat it very lightly.

Mr. Barbour: At the time I drew my resolution, I did not know there was a committee on the Torrens System. I would like my motion to be changed, so that it will name that committee.

Mr. Harris: Mr. President, I offer an amendment to the motion of the gentleman from Culpeper (Mr. Barbour), that the committee distribute this bill by the first of December.

Mr. Barbour: I have no objection to that amendment. I think it would be better for it to be circulated thirty days before the next meeting, instead of the first of December. I will suggest that my motion should read that it be published by the first of December, even though it is not distributed until thirty days before the next meeting. I will now read my substitute in its perfected form:

Resolved, That the Committee on the Torrens System be directed to draft a bill looking to the establishment of the Torrens System in Virginia, and report the same to the next meeting of this Association for its approval or disapproval. A majority of said committee is authorized to act, and as soon as its report is completed the Secretary is directed to have the same printed and a copy thereof sent to each member of the Association, not later than June 1st next.

Mr. Johnson: Mr. President, I now read my resolution as amended by Mr. Barton:

Resolved, That it is the sense of the Virginia State Bar Association that the General Assembly of Virginia should enact

proper legislation for the establishment of the Torrens Land System in Virginia, or in such portions thereof as it may be deemed wise and appropriate at this time. And the following committee, or a majority thereof—to-wit, Eugene C. Massie, Thomas C. Elder, R. L. Parrish, Frank W. Christian and W. M. Lile—are hereby appointed to draft the proposed legislation to be submitted to the Legislature, and to print and distribute said proposed legislation among the members of this Association prior to the 1st day of December, 1902.

The President: The question is upon the substitute offered by Mr. Barbour.

Mr. John T. Harris: I move that the substitute be laid on the table.

Carried.

The President: The question is now upon the original resolution of Mr. Johnson as amended by Mr. Barton.

On motion, the resolution of Mr. Johnson, as amended, was adopted.

The Association then took a recess to 8:30 P. M.

EVENING SESSION

Hot Springs of Virginia

WEDNESDAY, August 6th, 1902.

The Association was called to order by the President at 8:30 P. M.

Mr. R. B. Davis: I am requested by the Treasurer of the Association to call the attention of members again to the fact that a great many have not registered. It is absolutely essential that this be done, in order that he may make arrangements for the banquet to-morrow night.

There will be a meeting of the Executive Committee imme-

dately upon the adjournment of this session, and we will be glad to have all the members elected at this meeting present.

The President: Ladies, and gentlemen of the Virginia State Bar Association, we shall have the great pleasure this evening of hearing a gentleman who needs no introduction to a Virginia audience. I dare say, indeed, that there is no portion of this great country where this gentleman would need an introduction. In the Old Dominion his name is a household word. I introduce the senior Senator from the State of Virginia, who was, until its adjournment, a distinguished member of the Constitutional Convention, the Hon. John W. Daniel. (Applause.)

Major Daniel then read his address.

(See Appendix.)

Judge L. L. Lewis, Chairman of the Committee on Memorials, then presented the memorials on deceased members.

(See Memorials at end of Minutes.)

On motion, a recess was then taken to 10 o'clock A. M., Thursday, August 7th, 1902.

THIRD DAY

Hot Springs of Virginia

THURSDAY, August 7th, 1902.

The Association was called to order by the President at 10 o'clock A. M.

The President: Gentlemen of the Association, the Chairman of the Committee on Admissions wishes to make a report, and now he has an opportunity of doing so.

Col. Stickley read the final report of that committee.

(See Report at end of Minutes.)

The President: I will assume, on behalf of the Association, to return the thanks of the body to our very efficient Chairman

of the Committee on Admissions. (Applause.) Without him, I do not see how we could very well get along. (Applause.) The Secretary will now read the list of standing committees appointed by my successor.

Mr. Massie then read list of standing committees for ensuing year.

(See Appendix.)

Mr. A. W. Patterson, of Richmond: Mr. President, at the meeting of the Executive Committee last evening I had the honor to be elected chairman; and speaking on its behalf this morning, I desire to say something which ought to be of exceeding moment to those whom it concerns. These annual meetings of our Association, as you gentlemen know, culminate in a banquet. This banquet will be held in the dining-room tomorrow evening at 8:30. The Secretary has tickets for all of those who have registered and qualified otherwise.

I am also requested to announce that immediately after the meeting this morning, the photograph of the Association, which is also an important feature of our meetings, will be taken by the official photographer just outside of the building here, and all of our members are requested to be present. These pictures become of very great historical interest as the years go by, and those of us who treasure them up find them very valuable. The ladies are invited to be present and adorn the picture.

Mr. Stickley: Mr. President, I desire to announce that the Committee on Admissions will meet for organization at the speaker's desk as soon as we adjourn.

The President: Gentlemen of the Association, the distinguished gentleman who has consented to deliver the annual address before the Association this year is a native of the State of Virginia, and an alumnus of the University of Virginia, and an honored member of the Supreme Court of his adopted State, Missouri. (Applause.) While I am sure that his address will commend itself to the Association on its own merits, I would

like to say, from my personal intercourse with this gentleman, that he loves our dear old Virginia as much as we do. I introduce the Honorable James B. Gantt. (Applause.)

Judge Gantt then delivered the annual address.

(*See Appendix.*)

Judge R. T. W. Duke, of Charlottesville: Mr. President, I move you, sir, that the Virginia State Bar Association express its admiration and gratitude to the distinguished jurist who has just addressed us, by a rising vote of thanks. Unanimously adopted.

Mr. S. S. P. Patteson, of Richmond: Mr. President, I desire to offer the following resolution:

Whereas, the few surviving county records of Virginia for the seventeenth century are incomparably the most valuable in existence for the light which they throw on the early administration of justice, and the origin and condition of her colonial forefathers, whether social, religious, political or economical;

And whereas a large number of these ancient records are now in the state of tattered and mutilated volumes, without any backs, and fast becoming illegible by the fading of the handwriting and the decay of the paper from age or neglect;

And whereas in some of the county clerks' offices, largely owing to the entire lack of proper mechanical facilities, these priceless volumes are left, like so much useless rubbish, to rust in thick dust on the tops of bookcases and shelves, or to lie in piles upon the floor, exposed to constant dampness and the depredations of insects and other vermin, which will soon destroy what has escaped the corruption of time;

And whereas in the year 1892 the General Assembly of Virginia appropriated the sum of \$5,000 to copy these records down to the year 1700, for preservation in the State Library, but the sum proved insufficient and only a part of the records were transcribed—viz, the records of York, Henrico, Surry, Elizabeth City, Essex and Rappahannock Counties;

And whereas it is pre-eminently the duty and the privilege of the Bar Association of Virginia to exert all the influence and

use all the means in its power to have the records of our earliest courts of justice preserved with the utmost and unremitting care, as a sacred trust for the students of our legal, social and political institutions in the remote past:

Resolved, That a committee of five be appointed, with instructions to petition the Legislature to appropriate such a sum as will meet the expenses of continuing and completing the work already authorized by the General Assembly.

Adopted.

The following committee was then appointed under said resolution: S. S. P. Patteson, W. R. Meredith, William A. Jones, George McIntosh and T. S. Garnett.

On motion, the Association then adjourned, subject to the call of the Executive Committee.

EUGENE C. MASSIE,
Secretary.

Annual Reports

1902

Report of Treasurer

To the Virginia State Bar Association:

I submit herewith, as prescribed by Article II. of the By-Laws, a report of the transactions of this office from July 1, 1901, to August 1, 1902. I began the year with a balance of \$989.79, and ended with a balance of \$1,107.08 in the treasury; the sum of \$200.00 referred to in former reports having been passed to the general account. Our financial history is summarized in the following table:

Annual Accounts.

	RECEIPTS.	EXPENDITURES.	BALANCES.
July 1, 1889.	\$935 00	\$462 85	\$472 15
July 1, 1890.	1,350 00	1,305 68	516 47
July 1, 1891.	1,585 00	1,480 03	571 44
July 1, 1892.	1,707 00	1,892 43	386 01
July 1, 1893.	1,852 21	1,871 41	366 81
July 1, 1894.	1,780 50	1,872 28	275 03
July 1, 1895.	1,912 00	1,700 12	486 90
July 1, 1896.	1,752 00	1,858 42	380 49
July 1, 1897.	1,928 00	1,774 39	584 10
July 1, 1898.	2,195 30	1,903 54	825 86
July 1, 1899.	1,938 15	1,778 99	980 02
July 1, 1900.	2,147 43	1,715 13	1,412 32
July 1, 1901.	3,576 99	3,999 52	989 79
August 1, 1902.	3,245 96	2,138 88	1,107 08
	\$27,850 54	\$25,753 67	\$1,107 08

Frequent applications have been made to all delinquents for their dues, and three members have been dropped for the non-payment thereof by order of the Executive Committee. I now report that—

Forty-eight members owe \$5.00 each.....	\$240 00
Thirteen members owe \$10.00 each.....	130 00
Five members owe \$15.00 each.....	75 00
Six members owe \$20.00 each.....	120 00
 Total delinquency	 \$565 00

The following is a summarized statement of my transactions for the year ending August 1, 1902:

I.—Receipts and Disbursements.

As will appear from the accounts filed herewith (which have been examined and certified by the Auditing Committee), the total receipts for the current year have been \$3,245.96, as follows:

Balance on hand as per last report.....	\$ 989 79
Admission fees, annual dues for current year and dues collected from delinquent members.....	2,200 00
Interest on certificate on deposit in State Bank.....	34 67
Cash from sale of Reports.....	16 50
Cash from sale of tickets to John Marshall banquet.....	5 00
 Total receipts, as above.....	\$3,245 96
And the total expenditures have been.....	2,138 88
 Leaving in the treasury a balance of.....	\$1,107 08

The expenditures are classified as follows:

Annual dinner and other expenses at the White Sulphur Springs, West Virginia, August 6, 7 and 8, 1901.....	\$ 568 71
Stenographer at annual meeting.....	96 00
Salary of Secretary and Treasurer.....	300 00
Printing, wrapping, stamping and mailing reports of Thirteenth Annual Meeting and extra copies of addresses and papers	671 98
Stamps and envelopes for correspondence.....	168 91
Rent for fifteen months.....	156 25
Incidentals, printing circulars, express, telegrams, etc.....	92 50
Traveling expenses of J. S. Bryan and Eugene C. Massie on business of Executive Committee.....	58 53
Insurance	26 00
 Total	\$2,138 88

II.—Outstanding Obligations.

There are at present no outstanding obligations.

III.—Resources and Probable Expenses.

The resources of the Association for the coming year are estimated at \$3,107.08, as follows:

Balance now in treasury.....	\$1,107 08
Annual dues from 400 members at \$5.00 each.....	2,000 00
 Total estimated resources, as above.....	\$3,107 08

The probable expenses of the Association for the coming year are estimated at \$2,325.00, as follows:

Salary of Secretary and Treasurer.....	\$ 300 00
Stenographer at this meeting.....	75 00
Annual dinner at this meeting, including incidentals.....	750 00
Printing and distributing Reports of Proceedings.....	900 00
Rent and incidental expenses.....	300 00
<hr/>	
Total	\$2,325 00

The cost of printing our reports this year will be greater than usual, and the cost of this meeting will also exceed that of last year; and if the above estimate is correct, our balance at the end of the coming year will be nearly \$400.00 less than it is now. I have been convinced for some years that we ought to make a small charge for each banquet ticket, and that the list of complimentary tickets should be greatly curtailed. The actual cost of each ticket to the Association is between \$5.00 and \$6.00, and I should think no one would object to paying as little as \$2.00 for his ticket. Certainly, if one wishes to compliment a friend or client, as is frequently done, he ought to be willing to pay this small amount. As a rule, the complimentary tickets number from twenty to thirty. This is a very heavy charge upon the treasury, which should be reduced, if not entirely eliminated. The Association ought to accumulate a fund for the purchase of a permanent home, and I trust the proper steps will be taken to gather a surplus for this and other purposes.

Respectfully submitted,

EUGENE C. MASSIE,
Treasurer.

Accounts of Treasurer

DR.	THE VIRGINIA STATE BAR ASSOCIATION,	CR.
<i>In account with EUGENE C. MASSIE, Treasurer.</i>		
1901.		
July 24.	To cash paid for telegram to Julian Burke, Esq., concerning rates at White Sulphur Springs for Thirteenth Annual Meeting.....	\$ 25
26.	To telegram to J. S. Bryan, Esq., concerning interview with Mr. Burke.....	25
27.	To Davenport & Co. for 3 months' rent to July 1, 1901	31 25
Aug. 1.	To telegram to Judge C. T. Davis, of Boston, concerning annual address in the place of Mr. Guthrie	71
	To Southern Bell Telephone and Telegraph Co. for conversation with C. T. Davis at Boston concerning annual address, as aforesaid.....	8 10
	To telegram from Judge Davis.....	50
14.	To express on trunk from White Sulphur Springs.	1 85
15.	To expenses of banquet at White Sulphur Springs, West Virginia:	
	250 Benefactor cigars.....	\$17 50
	500 Turkish Trophy cigarettes.....	3 25
	2 cases Virginia claret.....	6 00
	9 qts. Wilson whiskey.....	9 45
	23 qts. Neirsteiner at 90 cts.....	21 70
	84 qts. champagne ("White Seal") at \$3.25	218 75
	12 qts. Apollinaris.....	2 41
		<hr/>
		\$279 06
	Add 10 per cent.....	27 90
		<hr/>
		\$306 96
	128 plates at \$2.00.....	256 00
		<hr/>
	Express	\$ 1 95
	Telegrams	3 30
		<hr/>
		5 25

MEMO.—Total expenses at White Sulphur were \$568.21, of which \$420.25 was paid in cash August 9, 1901, and \$147.96 was paid by check dated August 16, 1901.

REPORT OF TREASURER

43

Aug. 20.	To cash paid Everett Waddey Co., to-wit:	
	March 13th, 1 letter file.....	\$ 30
	June 29th, 100 card notices.....	1 25
	July 13th, 500 stamped envelopes...	12 90
	July 20th, 1,000 applications.....	2 25
	July 22d, 500 stamped envelopes....	12 90
	July 24th, 800 programmes.....	10 50
	July 27th, 500 postals printed.....	6 00

		46 10
28.	To express on photograph of Thirteenth Annual Meeting	25
	To H. B. Wills, photographer, for group of Association	2 00
29.	To John G. Winston for stenographic services, etc., in connection with Thirteenth Annual Meeting	96 00
	To Thaddeus for cleaning and storing books....	1 50
Sept. 12.	To Everett Waddey Co. for—	
	500 stamped envelopes.....	\$12 90
	600 card notices.....	1 75

		14 65
Oct. 5.	To Everett Waddey Co. for—	
	500 letter heads	\$2 50
	2,000 receipts	2 50

		5 00
8.	To salary of Secretary and Treasurer for three months to October 1, 1901.....	75 00
23.	To Fritz Sitterding, carpenter, for bookshelves for storage of reports, etc.....	27 47
Nov. 5.	To Christopher Engraving Company for 14 half-tone cuts for Vol. XIV.....	43 60
11.	To Everett Waddey Co. for—	
	Printing, binding and wrapping Vol.	
	XIV., at \$1.19 per page.....	\$536 69
	Pamphlets with Vol. XIV.....	53 29
	500 stamped envelopes.....	12 90

		602 88
	To Davenport & Co., rent for three months to October 1, 1901.....	31 25
12.	To stamps for Vol. XIV., 550 at 16 cts.....	88 00
15.	To stamps for Vol. XIV., 81 at 16 cts.....	12 96
16.	To Frank Cole for delivering Vol. XIV. to Richmond members and others in city.....	5 00
	To W. G. Cosby for hauling volumes to P. O....	50
21.	Ernest Young for framing group of 1901.....	1 13

Dec.	12.	To Everett Waddey for binding 20 volumes No. XIV. in Morocco for Mr. Justice Horace Gray..	20 00
	26.	To stamps for Vol. XIV.....	1 60
	30.	To stamps for Vol. XIV., \$1.60, and rubber stamp, 25c.....	1 85
	31.	To salary of Secretary and Treasurer to date....	75 00
 1902.			
Jan.	28.	To Davenport & Co., three months' rent to January 1, 1902.....	31 25
Feb.	8.	To Everett Waddey Co., 435 "return postals" for vote as to place of Fourteenth Annual Meeting	11 00
	10.	To Everett Waddey Co. for 500 stamped envelopes.	12 90
	13.	To express on package to American Bar Association	30
	21.	To Postal Telegraph Cable Co. for cablegram to Judge A. M. Keiley.....	11 16
	22.	To Virginia Fire and Marine Insurance Co. for \$1,500.00 insurance	9 75
		To Virginia State Insurance Co. for \$2,500.00 insurance on library.....	16 25
March	1.	To storage room for reports.....	6 00
	31.	To telegram to Judge Thomas G. Jones, of Ala...	50
April	12.	To Davenport & Co., three months' rent to April 1st	31 25
	15.	To telegram to Judge Thomas G. Jones.....	50
	16.	To telegram to Judge Thomas G. Jones.....	80
	18.	To telegram to Judge John Garber, San Francisco.	3 17
	20.	To telegram to Maj. T. C. Elder.....	31
	21.	To telegram to Judge Garber, Washington, D. C..	43
	22.	To telegram to Maj. T. C. Elder.....	37
	24.	To telegram to Judge Ed. Baxter.....	92
May	1.	To telegram to Judge Thomas G. Jones.....	65
	6.	To telephone to Maj. T. C. Elder.....	55
		To telegrams to R. B. Davis and George McIntosh.....	50
	13.	To expenses of E. C. Massie to Washington to interview Judge Garber on April 21, 1902....	15 10
		To expenses of J. Stewart Bryan and E. C. Massie to Washington to interview Secretary of the Navy W. H. Moody, etc.....	24 25
	28.	To telegram to Senator Martin.....	53

REPORT OF TREASURER

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June	2.	To telegram to Secretary Moody.....	59
		To salary of Secretary and Treasurer to April 1, 1902	75 00
	13.	To Everett Waddey Co. for 500 stamped envel- opes, \$12.90, and letter file, 30c.....	13 20
	18.	To telegram to Judge James B. Gantt.....	60
		To telegrams to and from J. S. Bryan.....	84
	30.	To salary of Secretary and Treasurer, three months to July 1, 1902.....	75 00
July	9.	To telegram to Thomas Nelson Page.....	50
	10.	To telegram to Judge Gantt.....	60
	22.	To Davenport & Co., three months' rent to July 1, 1902	31 25
	30.	To amount to balance.....	1,107 08
			\$3,245 96
July	30.	By annual dues for year ending July 30, 1902, and receipts from other sources.....	\$3,245 96
Aug.	1.	By amount on deposit in cash and certificate in State Bank of Virginia.....	\$1,107 08

Report of Executive Committee

To the Virginia State Bar Association:

Your Executive Committee respectfully report that, according to the custom which has heretofore been followed in holding the annual meeting at some place in the mountains and on the seashore in alternate years, the meeting for this year would have been fixed at the seashore, but your committee believed that August was the best time for holding the annual meeting, and that the seashore was not the best place for holding a meeting in that month, and caused reply postal cards to be sent by mail to each member of the Association, asking an expression of the individual preference of each member as to the time and place of holding the meeting.

A considerable number of members returned answers to these questions, and a very large majority of those answering expressed a preference for the Hot Springs, in Bath county, as a place of meeting and some time in the early part of August as the time.

In accordance with the wishes of the members so expressed, your committee fixed upon the Hot Springs as the place, and the 5th day of August as the time for holding the annual meeting, and they feel confident that the very generous hospitality which has been extended to the Association by the authorities of the hotel company, together with the beautiful surroundings of the place, both natural and artificial, are all that need be stated in justification of the wisdom of the choice so made.

Your committee believe that August is the best time for holding the annual meeting of the Association, because, generally, throughout the State, no circuit or corporation courts are in session and the Court of Appeals is also, generally, in recess during that month. The month of August, in the judgment of your committee, is not a fit time for a visit to the seashore, and for that reason it is submitted by the committee, that, if it is the judgment of the Association that the annual meetings shall

be held in the month of August, it will be better to abandon the custom heretofore observed, and to have all such meetings held at some place in the mountains.

Your committee are pained to have to report that since the last annual meeting twelve of its highly honored and well beloved members have died, namely:

Robert C. Stribling, of Newport News, Va., died April 30, 1901.

Archer L. Payne, of Roanoke, Va., died September 16, 1901.

General James A. Walker, of Wytheville, Va., died October 20, 1901.

John Page, of Beaver Dam, Va., died October 30, 1901.

Arthur S. Segar, of Hampton, Va., died November 28, 1901.

Judge John Paul, of Harrisonburg, Va., died November 1, 1901.

A. W. Armstrong, of Alexandria, Va., died December 24, 1901.

George A. Mushbach, of Alexandria, Va., died December 30, 1901.

L. D. Starke, of Alexandria, Va., died February 21, 1902.

Leonard Marbury, of Alexandria, Va., died June 4, 1902.

Judge R. R. Kane, of Gate City, Va., died June 6, 1902.

Judge Thomas M. Miller, of Powhatan, Va., died June 11, 1902.

Suitable memorials of all these members will be prepared and published with the Minutes of this meeting, in conformity with the usual custom in such cases.

The thanks of the Association are due to the officers of the Chesapeake and Ohio Railroad Company for the courtesy extended to the members in reduction of the fare to and from the place of meeting from the ordinary rate, which has heretofore been granted, to the sum of one fare for the round-trip, and the ticket being good from the 1st of August to the 22d, this being the most liberal terms ever offered the Association by any transportation company. Thanks are also due to Mr. Fitzgerald, the courteous Commissioner of Associated Railroads of

Virginia and the Carolinas, for his services in securing for the Association the usual rate of one and one-third fare from roads other than the Chesapeake and Ohio.

Your committee deem themselves fortunate in having secured the services of the distinguished gentlemen, whose names appear upon your program, to deliver addresses and read papers at this meeting. They will speak for themselves and need no eulogy at the hands of the committee.

Three members of this committee are now to be retired and others elected in their places. The terms of Messrs. B. B. Mumford and R. B. Davis, the latter of whom was elected to fill the unexpired term of the late W. P. McRae, will expire by limitation with this meeting, and their successors are to be elected for the term of three years; and a vacancy having been caused by the resignation of Mr. John Stewart Bryan, who has served upon the committee most efficiently for two years, his successor is to be elected for the term of one year.

Your committee are unwilling to close this report without expressing their high appreciation of the valuable assistance rendered to them by your accomplished and faithful secretary and treasurer, Mr. Eugene C. Massie, in making their arrangements for this meeting. These services have been of great value to your committee and have been rendered in such a cheerful and accommodating spirit that they deserve, as they have received, thanks of the committee, also of the Association.

RICHARD B. DAVIS,
For the Executive Committee.

REPORT OF COMMITTEE ON ADMISSIONS

Report of Committee on Admissions

HOMESTEAD HOTEL, HOT SPRINGS, VA.,

To the Virginia State Bar Association:

Your Committee on Admissions have the honor to submit the following report of their proceedings to the Association:

At a meeting of the committee, held August 4, 1902, place, pursuant to the call published by the Secretary Association, a quorum was found present, and J. B. Ranson, secretary of the committee, being absent, and he, being a member of the committee, the President, by virtue of a by-law of the Association providing for such contingency, appointed McAllister, member of the Bath Bar, and of the Thirt Circuit, to act on the committee in his stead, and J. T. Allister was elected as secretary of the committee in the place of J. B. Ranson; and John W. Fishburne, member for Circuit, absent, George E. Walker was appointed on the committee in his place, and it proceeded to business.

The roll was called, absentees noted and quorum present, following named gentlemen, upon their applications, duly properly authenticated, were unanimously elected members of this Association, to-wit:

1. Edward P. Buford.....	Lawrenceville
2. Edgar Lee Greever.....	Tazewell
3. Barner Gillispie.....	Tazewell
4. George Walker St. Claire.....	Tazewell
5. Hampton H. Wayt.....	Tazewell
6. Alexander Donnan Hamilton.....	Staunton
7. G. B. Sinclair.....	Petersburg
8. John M. Johnson.....	Charlottesville
9. Leon Goodman.....	Alexandria
10. Richard H. Mann.....	Lynchburg
11. Robert H. Talley.....	Petersburg
	Richmond

- | | |
|----------------------------|----------|
| 12. H. M. Smith, Jr..... | Richmond |
| 13. John Howard, Jr..... | Richmond |
| 14. R. T. Lacy..... | Richmond |
| 15. Henry A. Atkinson..... | Richmond |

Which action is respectfully submitted to the Association for confirmation.

On motion, the committee adjourned until to-morrow morning at 10 o'clock.

E. E. STICKLEY,

August 7, 1902.

Chairman.

To the Virginia State Bar Association:

At this, the first adjourned meeting of the Committee on Admissions, held this morning at this place, a quorum being present, upon his application properly authenticated:

- | | |
|-------------------------|----------------|
| 16. Fitzhugh Elder..... | Staunton, Va., |
|-------------------------|----------------|
- was unanimously elected a member of the Association and the action of the committee is now hereby respectfully submitted to this body for confirmation, and the committee adjourned to meet to-morrow morning at 9:30 o'clock.

E. E. STICKLEY,

August 5, 1902.

Chairman.

To the Virginia State Bar Association:

At the second adjourned meeting of the Committee on Admissions, held this morning, a quorum was found present. H. G. Peters, the member of the committee for the Sixteenth Circuit, being absent, the President appointed D. D. Hull, of the Bristol Bar, in his stead; and N. C. Manson, member for the Fourth

Circuit, absent, Thomas D. Christian, of the Lynchburg Bar, was appointed in his place, and the committee proceeded with the business before it.

Upon application duly avouched and presented, the following gentlemen were unanimously elected members of the Virginia State Bar Association, to-wit:

- | | |
|--------------------------------|---------------|
| 17. Paul M. Penick..... | Lexington |
| 18. C. J. Rixey, Jr..... | Culpeper |
| 19. Robert E. Scott..... | Roanoke |
| 20. John W. Carter..... | Martinsville |
| 21. George Campbell Peery..... | Wise |
| 22. Preston W. Campbell..... | Abingdon |
| 23. C. B. Slemp..... | Big Stone Gap |

All of which is respectfully submitted to the Association for confirmation, and the committee adjourned till to-morrow morning at 9:30 o'clock for final session.

E. E. STICKLEY,
Chairman.

August 6, 1902.

To the Virginia State Bar Association:

At the third adjourned meeting of the committee, held this morning at this place, and the final meeting of this committee as now constituted, it appearing that Henry C. Riely, the member for the Seventh Judicial Circuit of the State, was absent, the President appointed J. R. V. Daniel in his stead, and a quorum of the committee was found present.

The following named gentlemen, upon their applications properly presented and avouched, were unanimously elected members of this Association, to-wit:

- | | |
|---------------------------|--------------|
| 24. James L. Shelton..... | Richmond |
| 25. H. H. Byrd..... | Warm Springs |
| 26. A. H. McDannald..... | Warm Springs |

This action is respectfully submitted to the Association for approval, and with this, our final report, your committee congratulated these young men who have come in and taken their stand with the Association, and at the same time congratulated the Association upon its good work and bid it God-speed in its splendid and useful career.

E. E. STICKLEY,
Chairman.

August 4, 1902.



JOHN PAUL

Memorials

JOHN PAUL.

John Paul, of Harrisonburg, Va., was born on June 30, 1839, near Ottobine, in the county of Rockingham, Va. He was the son of Peter Paul, and his wife, Maria Whitmer—names coincident with the early settlement of the county. His paternal ancestors were of French extraction, having refugeeed on account of religious persecution in the early part of the eighteenth century from France to Germany, from whence came Jacob Paul to America, in 1775, then in his seventeenth year. He enlisted in the Revolutionary Army, serving as a drummer boy at the battle of Bunker Hill, and afterwards throughout the war as a private soldier. At the conclusion of the Revolutionary War he emigrated to Rockingham county, Va., and his son, Peter Paul, was the father of John Paul. The Whitmers belong to the well-defined influx of Germans into the Valley of Virginia in the latter half of the eighteenth century, who, along with the sturdy Scotch-Irish emigration, laid the foundation of its progress and civilization. There is no more beautiful locality in the fruitful county of Rockingham than "the hills of Ottobine," where the childhood of John Paul was spent, and where, now at work on the farm of his father, now attending the country school, he passed from boyhood to youth. Before he attained his majority, the yearning for a higher education possessed him, and after teaching school for a year, he entered Roanoke College in the fall of 1860, there to pursue his collegiate curriculum. Before the first session had ended, however, the great Civil War was flagrant, and John Paul, in his twenty-second year, enlisted as a private in the Salem Artillery,

with which organization he remained throughout the first year of the war, and then joined the Fifth Virginia Cavalry and was a lieutenant in Company I.

In August, 1862, during the second Manassas campaign, his regiment made a night attack on General Pope's headquarters, at Catlett's Station, and he was severely wounded in the charge. He promptly returned to his command on his recovery, and continued in active service until the battles of the Wilderness, when he was captured and was confined a prisoner in Fort Delaware, until after the surrender. His conduct throughout the war is known to have been that of a brave and fearless soldier. He offered his life—a sacrifice, if need be—upon the altar of his country, and none, not the bravest of the brave, did more.

At the reopening of the University, in the fall of 1865, John Paul, then in his twenty-sixth year, entered the law class, conducted by John B. Minor, that greatest of teachers and best of men, and prosecuted his studies in this department of the University for two full sessions, graduating in June, 1867, with his Bachelor's degree. He located at once at Harrisonburg, the county seat of his native county, and commenced the practice of his profession.

At the first general election of county officers, under the old Constitution of 1869-'70, held in November of the latter year, he was elected attorney for the Commonwealth for the county of Rockingham. This was the commencement of his political career. The position was one of importance, and what was most agreeable to the ambitious young lawyer, brought him in contact with many influential citizens, thereby assisting him in laying the foundation of a warm and devoted personal following in his native county that adhered to him in the trying and difficult political course upon which he subsequently entered. It is hardly necessary to say that he discharged the duties of this office with marked success, filling the same until October, 1877, when he resigned in anticipation of his election to the Senate of Virginia, for which office he was at that time a candidate upon a platform regarding the settlement of the State debt and the administration of State affairs, afterwards known as Read-

juster. While Commonwealth's Attorney, his practice in civil cases was not extensive, except in the court of bankruptcy, where he enjoyed a large and lucrative employment.

The ambition of John Paul was distinctively political—he aspired to high political office, and enjoyed the atmosphere of political strife, and the campaign for Governor in 1877 on the State debt issue coming on, he entered politics when in his thirty-eighth year as a supporter of General Mahone and became a candidate for the State Senate for Rockingham county. His campaign was spirited, vigorous and aroused much enthusiasm among his many personal friends, and he was easily elected. In the following session of the General Assembly of 1877-'78, he took a large part in the debates in the Senate on the debt question, which culminated in the passage of the Barbour bill, and upon the veto of that measure by Governor Holliday, the Readjuster party rapidly approached independent organization. The Congressional campaign of 1878 was now at hand, and the Readjusters determined to enter the field of national politics, and John Paul became a candidate for Congress in the Seventh District, then represented by his friend and fellow-townsman, Judge John T. Harris. He was not, however, the only aspirant from among the leaders of Readjustment. Captain H. H. Riddleberger and Judge Henry C. Allen, of Shenandoah; Dr. S. H. Moffett, of Rockingham, and Rev. John E. Massey, of Albemarle, all prominent in the Readjuster movement, contested with him the leadership of the Readjusters. General John Echols, of Staunton, also entered the contest. It may be doubted whether in the history of Virginia politics, there was ever at the same time in one district, as many candidates for Congressional honors, of as much ability as in the Seventh District in 1878. The canvass commenced early in June of that year, and by September Judge Paul had easily distanced Captain Riddleberger, Judge Allen and Dr. Moffett, and the Readjusters in the Valley were rapidly concentrating on him. Early in September, after a joint debate at Charlottesville—Mr. Massey's home—between that gentleman, Judge Paul and Judge Harris, the latter concluding the discussion,

Mr. Massey withdrew from the canvass and the fight continued between General Echols, Judge Harris and Judge Paul, until a few days before the election, when General Echols withdrew, and Judge Harris was returned by a majority exceeding 1,700. The legislative session of 1878-'79 developed sharply the lines of divergence between the followers of General Mahone and those antagonistic to him in the differences growing out of the debt settlement, known as the McCulloch bill, leading to the Mozart Hall Convention, and a regular organization of the Readjuster party and its complete separation from the old Democratic conservative party. At the election for members of the General Assembly in 1879, on the issues then formulated, Judge Paul was returned to the Virginia Senate from his native county by an increased majority, and participated in the election of General Mahone to the Senate of the United States. The Presidential election of 1880 was now approaching, and the Readjusters, who had up to this time continued to call themselves Democrats, were forced to fall in line with the regular organization of that party, ally themselves with the Republicans or occupy a middle ground. This latter course was adopted. Judge Paul being one of the leaders advocating the 7th of July convention, held in Richmond on that date, when a full electoral ticket was placed in nomination independent of both the Hancock and Garfield tickets, became without opposition in his party, its candidate for Congress in the Seventh District, in 1880.

Judge Henry C. Allen, of Shenandoah, declining to follow General Mahone in the movement now clearly tending to a coalition with the Republican party, accepted the nomination for Congress at the hands of the Democratic Convention, but was defeated by Judge Paul by a majority exceeding 700, after an exceedingly hard fought and ably conducted canvass. Taking his seat in Congress in December, 1881, just after the Readjuster-Republican coalition ticket for Governor, headed by Colonel Wm. E. Cameron, of Petersburg, had carried the State, he served while a member of the House of Representatives, on the Committee on Elections, and during the consideration in the

House of the Mackey-Dibble contested election case, he delivered on May 30, 1882, a set speech in which he explained the position and the purposes of his party in Virginia. In 1882, he was again the nominee of his party for Congress, and was opposed by Governor Charles T. O'Ferrall, as the Democratic candidate. The certificate of election was given to him, but his election was contested by Governor O'Ferrall, who was awarded the seat after Judge Paul had resigned from the House of Representatives to accept the position of United States District Judge for the Western District of Virginia, which office, President Arthur, at the instance of General Mahone had tendered him in the spring of 1883 upon the death of the incumbent, Judge Alexander Rives. After much hesitation, reluctant even to leave the uncertain field of politics for the life tenure of the Federal Judiciary, he had finally accepted and taking the oath of office on September 5th, 1883, he at once entered upon the discharge of his duties, filling the position until his death.

During his service on the bench, Judge Paul made a number of public addresses, notably, one on the occasion of the laying of the cornerstone of the beautiful new county courthouse of his native county, on October 15th, 1896—a paper as valuable for its exhaustive historical research, as it is creditable to the industry and eloquence of its author.

Upon his acceptance of the judgeship, there was much speculation as to how he would discharge the delicate and difficult duties of the position. Fresh from the fiercest political controversy known in Virginia since the war, an extreme partisan, elevated to the bench at a time when the phrase, "We are for Arthur, because Arthur is for us" seemed to be expressive of the political morality of the party to which he belonged, Judge Paul was not long in giving evidence of the standards guiding him in the performance of the duties of this high position or of disclosing his ability to discharge them. He applied himself with renewed vigor to the study of the science of jurisprudence, and soon strikingly illustrated the fact that in our country many of the ablest, purest and most impartial judges are drawn from among the intensest partisans. All traces of his previous

political prejudices passed away upon his advent to the bench, and he became and continued to the last ,an able, honest, fearless and just judge.

I shall not attempt here a survey of Judge Paul's labors upon the bench, either by a review of the great number of cases in which he handed down opinions, as well when sitting on the Circuit Court of Appeals, as when on Circuit, or by a recountal of the many questions of first impression, considered and decided by him or of the cases constantly coming up for decision in which the ascertainment and application of distinct principles of law became necessary.

Nor need the character of that work be recalled, for our emulation and admiration. It is known alike to the Bar and to his brethren of the Bench. It is found in the depositories of our jurisprudence, to lighten the labors of both, and to remain a monument to his energy, his ability, his strong judicial grasp and his love of right and justice. The bare fact is stated, however, when it is said of him, what may be said of no man more truly, that his mental processes were always absolutely honest. His investigations, his reflections, his reasoning, proceeded from motives of the highest honor. He did his work not from the lofty stimulus of duty only, or because upon him alone was its performance imposed, but as well for the reason that he loved truth and honor, and reverenced justice as though it were his "conscience and his king." To him the question is it right, is it just, came with absorbing gravity. With this inquiry did he challenge all propositions, as he gladly dedicated his highest, noblest efforts in the service of his country, by taking part in its administration of justice. Not from the bench alone, but in contact with his fellow-man, and in public addresses as well, did he love to inculcate the sentiment dear to his heart, "Justice is the common concern of mankind." Whether upon the floor of the National Congress, advocating the cause of honest elections or among his own people, with whom, despite the loneliness of judicial station, he ever maintained affectionate relations, he loved to dwell upon the beauty and holiness of justice. And lest what has been said in this regard may seem due per-

haps to the partiality of friendship, his own words delivered on the occasion of laying the cornerstone of the new courthouse in the county of his nativity, afford ample corroboration:

"May those—said he—who shall preside in this Temple of "Justice always realize that 'Justice is the common concern of "mankind,' that all, *all*, the rich and poor, the strong and the "weak, the prosperous and the failing, the high and the low, the "well-to-do in comfortable home, and the paupers in their hovels, "are all equally entitled to the protection of the laws and to "their fair, honest, fearless and just administration. And may it "ever be said of them, that they judged in honor and in truth, "and that their judgments were ever guided by the spirit of "Righteousness and founded in Justice."

As may be inferred from what has been said, Judge Paul's lack of advantages in early life, the interruption of his academic training, the war ensuing, and the struggle for bare subsistence immediately following, retarded his acquisition of knowledge—but only for a time. He soon became deeply versed not only in the science of jurisprudence, but in the political and constitutional history of the country as well, familiar with the best of our literature, and well informed as to the progress of the world. And as his knowledge grew, so did his sympathies extend, and the spirit of tolerance, ever deepseated in his nature, enlarge and broaden, until it seemed that charity, benevolence and urbanity so enveloped him as to leave no space for prejudice or dogmatism. The clearer understanding of equitable principles, which comes with expanded moral perceptions, grew with him from more to more, until his heart and mind were quick to respond to their intimation. And to one so keenly sensitive to the slightest suggestion of equity, argument were indeed superfluous.

Judge Paul's demeanor upon the Bench will long be remembered by the Bar who practiced before him. An attention that seldom showed weariness under any provocation, a courtesy and kindness rarely found, a generous consideration for counsel under the most trying circumstances, and a promptness in the

dispatch of business characterized his discharge of the onerous duties of the position and endeared him alike to the officers of the Court, to juries, witnesses and members of the Bar. Withal, a dignity evoking respect and deference, without ever manifesting the slightest austerity.

At the commencement of his service upon the bench, Judge Paul was no doubt inclined to a rather strict construction of the powers of the National Government, but as his study and reflection upon the great chart of its authority matured, he came to be among the many who venerate the work of Virginia's greatest jurist, and his reverence for the name and fame of the incomparable Marshall was second to none in this broad land.

Few men were more genuinely public spirited than John Paul. In all that made for the advancement of his fellow citizens, of the people everywhere, he took a vital interest, and none contributed more than he, within the limits of his opportunities, to the welfare of his community. Early in life he gave special study to the system of public education, and always manifested great solicitude for its promotion and development. Not a few are those yet living who recall the power and earnestness, one might say pathos, put forth in his speeches when in politics, in pleading the cause of the free school system in Virginia. He placed a high estimate on the power of public discussion of all questions affecting the rights and interests of the people, whether in the press, at the fireside, or on the platform. In the work of the Bench and of the Bar of the country, and especially of Virginia, he was deeply interested. He noted with glad approval the advent of the Law Register, and welcomed the organization of the Bar Association; of the law requiring examination of applicants for admission to the Bar—indeed, of all movements designed to promote the science of jurisprudence, and the elevation of the profession.

Judge Paul never wearied of his work, approaching it always with readiness and zest—a disposition finding expression even in the last trying months of his life, as when, though broken in strength, but with spirit undaunted, he remarked as he made

request for another to hold his approaching term, that he was glad to have always been able to hold his courts—that he was proud of his district, proud of the Bar practicing in it, and it was hard not to be able to go on with his duties—for he had looked forward to years of active continuance on the bench.

Any sketch of John Paul would be deficient which failed to refer to his keen sense of humor, his companionable nature—that indescribable power of diffusing a feeling of nearness—and his tenderness of heart, whether exhibited on the Bench, as when with tearful voice and ill-concealed emotion, he softens within the limits of the law the sentence to the old Confederate confessing his guilt, or shown in his sympathy and assistance to youth in the struggles of early life, as many in this and other States bear witness in grateful remembrance. He was open, frank, warm-hearted, considerate, whole-souled and for his bounty,

“There was no winter in’t; an autumn ‘twas
That grew the more by reaping.”

An ardent lover of nature and her thousand charms, he paid her tribute in a lifelong cultivation of flowers and trees and shrubs, and in the finer feelings that come to those to whom the presence of her mysteries is joy and gladness as well as reverence and awe.

In 1874, John Paul was united in marriage to Kate Seymour Green, daughter of Mr. Charles H. Green, of Warren County, Virginia, to whom were born seven children, four sons and three daughters, and she, with three of the former and all of the latter survive him. It is no intrusion into the sanctity of their home—for it is known of all—to say that his married life was ideal; nor to add, that to none so much as to the one nearest and dearest to him, was he indebted for all that was highest and best in life and thought. To her encouragement and sympathy quickened by the keen insight of love, could be traced the most potent influences upon his character and career.

A disease of the heart developing less than half a year before bringing his life to a close on November 1st, 1901, was long

enough to try to the uttermost, the patience and the courage of this brave and faithful man. And right nobly did he bear its agony—for with a soldier's fortitude, and a Christian's faith, he "embraced the purpose of God" and passed "to where beyond these voices there is peace."

In the sacred soil of his beloved mother, Virginia, precious with the dust of statesmen and patriots, of soldiers and scholars, of honor and eloquence, this learned, this loyal and this loving son was laid to rest;

"White-souled, clean-handed, pure of heart."

JOHN T. HARRIS.



I. D. STARKE

COLONEL LUCIEN DOUGLAS STARKE.

Colonel Lucien Douglas Starke died at his home, in Norfolk, Va., on February 21, 1902, after a brief illness from pneumonia, in the seventy-seventh year of his age.

He was the fourth child of Colonel Bowling Starke and Eliza G., the daughter of Colonel Anthony New, and was born near Cold Harbor, in Hanover county, Va., on February 9, 1826.

His father, who was born in the same county in 1790, was for many years the presiding justice of its County Court under the old judicial system, and was an extensive planter, as had been also his grandfather and great-grandfather, both of whom were named John Starke.

Colonel Anthony New, his maternal grandfather, represented the Caroline (Virginia) district in Congress for several terms, and afterwards, removing to Kentucky, was again returned to Congress as the representative from Henry Clay's district, in that State.

A few years after Colonel Starke's birth his father moved his family to Henrico county and gave his son the benefit of the best classical schools in the city of Richmond, of which he eagerly took the fullest advantage.

At the age of fifteen years he was given a position in the office of the *Richmond Enquirer* and continued there for seven years.

The *Enquirer* was at this time under the management of the celebrated journalist and editor, Thomas Ritchie, and was one of the most influential Democratic newspapers in the United States.

Colonel Starke thus had the rare advantage of meeting and associating with the leaders of thought and moulders of public opinion of the period, and, surrounded by such influences, he

learned to take the broad, sound views of public affairs and to form the high ideals of the duties of citizenship which he ever afterwards maintained. Here also he began to cultivate the fine literary taste and to acquire the choice command of language that characterized all his utterances written or spoken.

Even at this early age he gave proof of unusual mental vigor and a decided aptness for journalism, and Mr. Ritchie frequently left to him the responsible duty of writing editorials for the *Enquirer*.

It was a rare privilege and also an inspiration to hear him relate his reminiscences of the many eminent Virginians he thus met and knew, among whom were Thomas Ritchie, John Hampden Pleasants, John M. Daniel and others of the same noble type.

These early associations made a deep impression upon his character and fixed the moral plane upon which he thought and lived.

After his seven years of service in the office of the *Enquirer*, he accepted an offer of employment from Samuel T. Sawyer, who was about to found the *Southern Argus*, at Norfolk, Va., and he remained with that paper until he removed to Elizabeth City, N. C., in 1850, and established the *Democratic Pioneer*, which he edited until he began the study of law, in 1857.

He was a delegate to the National Democratic Convention in 1852, which nominated Franklin Pierce for President.

In 1853 he was appointed by President Pierce Collector of Customs of the port of Elizabeth City, and held this position during the administrations of Presidents Pierce and Buchanan, but resigned upon the inauguration of the Republican candidate, President Lincoln.

In 1858 he was admitted by the Supreme Court of North Carolina to practice law, in which he was engaged at Elizabeth City, N. C., until his adopted State seceded, in 1861, when he promptly volunteered for service in the army.

He was at once ordered to fortify and defend Hatteras Inlet, and there assumed command of the Third Regiment of State Militia with the rank of colonel.

This position he held until the State troops were turned over to the Confederate States government, when he was appointed commissary of the Seventeenth Regiment of North Carolina Infantry.

He held this rank until the close of the war, but also acted as inspector-general of General James G. Martin's brigade. At one time he also acted as adjutant-general to General J. Johnston Pettigrew.

His courage and zeal for the cause made him scorn to take advantage of the opportunities afforded by his position of avoiding the dangers of the battlefield, and it was his custom, after ordering the wagons to the rear, to engage in the hottest of the fight, frequently serving in the trenches and most exposed places.

He thus earned for himself the title of "the fighting commissary," which clung to him throughout the war.

On one occasion, when ordered to attack the enemy near Shepperdsville, N. C., finding White Oak River bridge destroyed, he acted as engineer and quickly constructed with pine trees and without nails a sort of dam across the stream, over which the command passed going to and returning from the attack. The enemy were surprised, vigorously attacked, driven out of their forts and blockhouses, abandoned their quarters and lost cannon, arms and a large quantity of supplies and prisoners.

He was in front in all the engagements in which his brigade participated, among the most noted of which were the battles around Petersburg, Bermuda Hundred, Shepperdsville, N. C. and Second Cold Harbor, where, in General Robert F. Hoke's division, in the bloodiest battle of the war, he successfully aided in defending his birthplace from the enemy. After the war

General Grant told General Hoke that his army suffered worse in front of Hoke's division that day, June 3, 1864, than at any time during the war.

He surrendered with General Joseph E. Johnston's army, at Greensboro, N. C.

His whole military career was marked by undaunted courage and an unfaltering devotion to the cause he had espoused, but the modesty of his nature caused him to refrain from speaking of the many gallant and heroic deeds he performed, and it was only from the lips of others that imperfect accounts could be obtained.

The war over, he resumed the practice of the law in Currituck county, N. C., until December, 1867, when he returned to Norfolk, Va., and conducted a successful and lucrative practice until the time of his death. In 1879 he formed a copartnership with William B. Martin, which lasted until the latter was, in 1895, elevated to the Bench, after which, with his two sons, he continued his practice as senior member of the firm of Starke & Starke.

At the Bar he was a formidable opponent and a successful advocate. He readily grasped the leading points of his client's cause and was always thoroughly prepared for the contest. His views of the matters in controversy were always clear and comprehensive, and, quickly dismissing immaterial matters, he vigorously pressed upon the attention of the court and jury the real issues on which the case turned.

In North Carolina he could cope successfully with such competitors as William N. H. Smith (afterwards Chief Justice of the Supreme Court of Appeals), Senator Biggs, Colonel James W. Hinton, and, on coming to Norfolk, he came to the front rank of a Bar which was adorned by the names of General Millson, Judge Scarburgh, Tazewell Taylor, Major Duffield, Mr. Ellis and Mr. Walké, who have passed away, and by other able lawyers, who are still living.

He was a member of the Virginia State Bar Association at its organization, at Virginia Beach, in 1888, and was always deeply interested in its meetings, which he loved to attend.

At the time of his death he had just completed his term of office as President of the Bar Association of Norfolk, Portsmouth and Norfolk county.

For years he had been an earnest and consistent Christian, and was a member of St. Luke's Episcopal church, and had served as one of its vestrymen.

He was also a zealous Mason, loved its sublime mysteries, and in his daily life worthily exemplified its tenets and precepts.

Of the broadest sympathies, everything that related to the welfare of his State or country readily engaged his attention and he always responded to the call of his people and party, and with voice and pen, boldly advocated the cause which his judgment approved as advancing their best interests.

He represented his city in the House of Delegates during the sessions of 1875-'76 and 1876-'77, and again in the session of 1887-'88.

He had also served as a member of the City Councils and as president of its Board of Health.

Colonel Starke always retained his fondness for his early profession of journalism, and was invited by his intimate friend, the poet-editor, James Barron Hope, to become associated with him in founding the *Norfolk Landmark*, which became the leading newspaper of Tidewater Virginia. He was president of the *Landmark* Publishing Company at the time of his death.

Captain Hope and Colonel Starke were congenial knightly spirits, and their friendship, which was like that of brothers, grew closer with years, and only terminated with the death of the former.

Colonel Starke was twice married, first to Elizabeth, daughter of Dr. G. C. Marchant, of Indiantown, N. C., and again to Talitha L., daughter of John Pippen, of Edgecombe county, N. C.

Two children by his first marriage survive him—Eliza N. Starke and Elizabeth M., the wife of Judge William B. Martin, of the Court of Law and Chancery, of the city of Norfolk.

He left four children by his second marriage—Lucien D., Talitha P., Virginia Lee and William Wallace Starke.

The above imperfect sketch can give but a slight idea of the leading part that Colonel Starke played in the many stirring and important events in which he figured or of the high esteem in which he was held by all who knew him.

Honest, upright and fearless, he knew not how to dissimulate, but freely and boldly expressed his views and opinions on all subjects, social and political.

He cherished the highest opinion of the duties of citizenship, always considered a public office as a public trust, to be administered solely for the best interests of the whole community, and he deeply deplored the increasing tendency of modern times to regard office as the legitimate spoils of a clique of political schemers, to be maladministered for the sole benefit of those who have succeeded by any means in putting into the hands of their puppet a certificate of election.

His ideals were lofty and his spirit chivalrous, and he boldly maintained the right in all things and with all the ardor of his soul denounced, in most scathing terms, all that was base or mean.

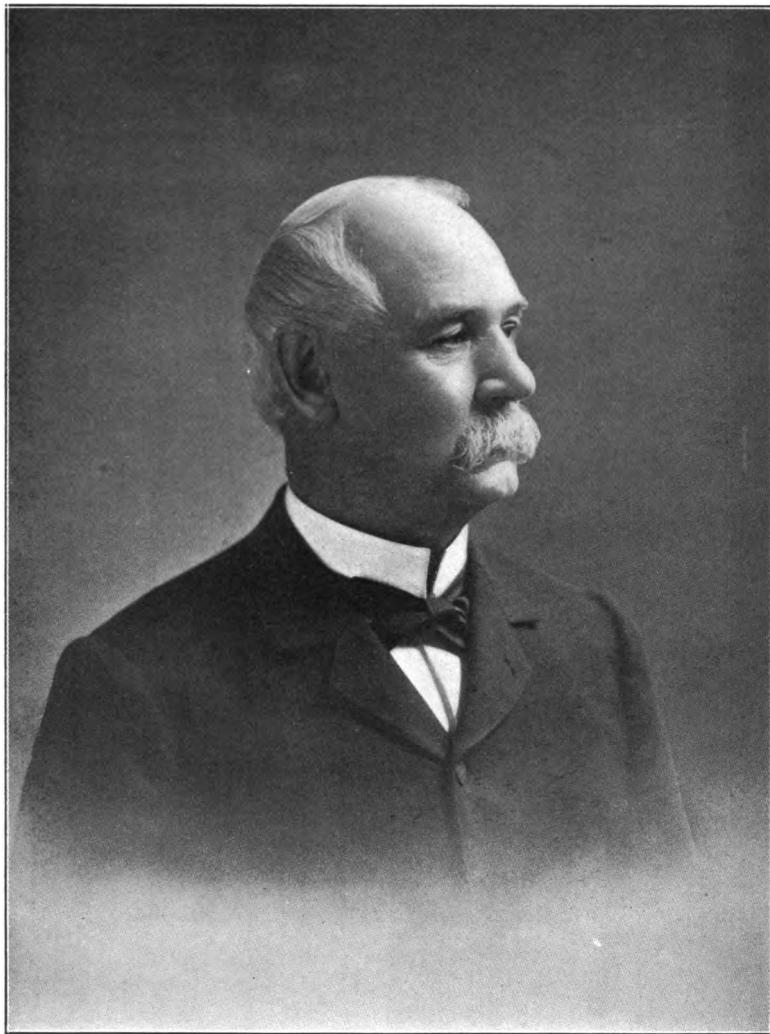
As a friend, he was loyal and true. He never waited to be called on to render assistance, but the generous impulse of his nature prompted him to place himself unreservedly at the service of his friend, and he was never known to waver in his devotion to any cause he had espoused.

He was highly gifted as a conversationalist and in social gatherings he was usually the central figure of a circle of listeners, who were attracted and charmed by the genial flow of wit, humor and interesting anecdote that fell from his lips.

The respect and affection in which he was held by his fellow-citizens was shown by the sorrowing multitude that followed his mortal remains to their last resting place.

Peace to his ashes.

JOHN B. JENKINS.



GEN. JAMES A. WALKER

*GENERAL JAMES A. WALKER.

General James A. Walker died at his home, in Wytheville, soon after sunrise on Sunday, the 20th day of October, 1901, in the seventieth year of his age.

It has fallen to the lot of but few men in the history of this State within the last half century, to have had a more interesting and eventful career than the subject of this sketch. For he had been one of her foremost soldiers, lawyers and statesmen.

The great lawyer who had so often appeared in the temporal courts to eloquently plead his clients' cause, quietly and peacefully fell asleep in death's embrace to appear in the eternal court to plead his own. He was the same brave man in death as in life, and he met the summons which all must answer, with resignation, fortitude and unflinching courage. Not a murmur was heard to escape his lips. He passed away

"Like one who wraps the drapery of his couch
About him, and lies down to pleasant dreams."

He was one of "earth's noblemen," a man among men, and left a strong impress upon the section in which he lived and died. His attractive, vigorous, manly personality made for him staunch and true friends and bitter enemies. The former he "grappled to his soul with hooks of steel," his proud imperious nature asked no quarter from the latter.

James A. Walker was born in Augusta county, Virginia, near Fort Defiance, on the 27th day of August, 1832. He sprang from sturdy Scotch-Irish ancestry. His father and mother were Alexander and Hannah Hinton Walker, both of them living to a ripe old age, beloved and respected by their children and grandchildren. Like so many of the best men in all the avenues of life, young Walker spent his early days on a farm

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In after years, when his lines had fallen in different places, it was his delight to recall the boyish pranks he had indulged in at the old homestead. He attended the country school near his father's home until he was about sixteen years of age, when he left the parental roof, and bent his footsteps toward Lexington, where stood the grim battlements of the Virginia Military Institute. He entered that school as "a plebe" in September, 1848, possessed of a sound mind in a sound body, and at once took high rank with his classmates.

At this time, Thomas J. (Stonewall) Jackson was professor of tactics and other branches at this famous institution of learning. The writer has often heard General Walker say that when he entered the Institute, Jackson was awkward, uncouth, ungainly, and above all, deeply pious. He was a strict disciplinarian, but notwithstanding this, the subject of much good-natured ridicule, and many were the pranks played on him by the mischievous young soldiers, Cadet Walker joining in with hearty good will. His class would have graduated on July 4, 1852. He stood third therein, being an honor man.

About three months prior to the date above mentioned, the high strung, impulsive cadet took great umbrage at some real or imaginary injustice done him by Professor Jackson in one of the class rooms. The youngster was bold enough to demand an apology from his stouthearted, puritanical professor, which he, of course, refused to give. Whereupon the fiery young student challenged his preceptor to fight a duel. It may not be a matter of history, but it is nevertheless true that Jackson wished to accept this challenge from his pupil, but was dissuaded from doing so by other members of the faculty.

How strange are the vicissitudes of human life! Little did either of these men at that time, one of them a mere boy, dream that their lives would be so closely entwined in fighting in a glorious and a common cause, that both loved so well. And when the great warrior soul of Jackson had been mortally stricken, and he realized it, and his old brigade, the immortal "Stonewall," needed a new leader, he it was who called on his old pupil to take up the task. How well it was borne, history

records. But for this signal breach of discipline on the young man's part he was not permitted to graduate. After the war was over, the Board of Visitors sent him his diploma, which he laughingly said he had lost by wanting to fight, and had finally won by fighting.

In 1854 General Walker commenced the study of law. During this year, and a portion of the succeeding year, he read and studied in the office of John B. Baldwin, in Staunton. He thus acquired a knowledge of the methods of a great lawyer and advocate, which stood him in good stead ever afterwards.

In the fall of 1855 he entered the law class at the University of Virginia, where he remained for one year only. Mr. Minor then had been at the University about ten years as professor of common and statute law, and had already commenced to lay the foundation for that renown as a teacher of law that has stamped him as one of the greatest moulders of public sentiment for good all over the South. Having completed his law studies at the University, the young student moved to Southwest Virginia to practice. He opened an office at Newbern, Pulaski county, in the fall of 1856. This portion of the State at the time was wild and rugged, remote from railroads, was comparatively unsettled and unknown, and was opening a new field for professional men of all descriptions. No young man, as the sequel shows, took greater advantage of the opportunities thus offered than General Walker. The bar of Pulaski was not a large one, but it had several members who compared favorably with the best lawyers in the State. And then, as was the custom in those days, the strong members of the surrounding bars attended the Pulaski courts. Those members of the bar who were practitioners at the time, and are yet alive, will bear ample testimony to the fact that the young man just from college, in the cases he had, always acquitted himself with credit.

In 1859 he was elected Commonwealth's Attorney of Pulaski county. His age was twenty-seven. Many a young man by filling this office has either buried his hopes for the future as a lawyer, or seized the golden opportunity, and marched on to eminence in his profession. In characteristic style the young

prosecutor was taking the tide at the flood which would have led to fortune, when the great war cloud that had been lowering over the country for months burst forth in all its fury and intensity. At this time Walker was captain of the "Pulaski Guards," a crack volunteer company composed of hardy mountaineers, who afterwards won fame on a hundred battlefields by following the victorious plume of "Old Stonewall."

At the first call for troops, in 1861, on the part of Governor Letcher, this company went to the front, brimful of patriotism and enthusiasm, and was assigned to the Fourth Virginia Regiment, commanded by Colonel James L. Preston, and from Richmond was soon ordered to Harper's Ferry. It is not the purpose of this article to follow General Walker throughout the war, or to recount the deeds of valor gloriously wrought by him and his gallant men for four long and bloody years. Others have performed this task more worthily. But from the time he went forth to do battle for Virginia and Virginia's cause and that of her people, until the close, at Appomattox, of the titanic struggle, his record is a part of the history of the Army of Northern Virginia, led by the greatest chieftains of modern times.

From a captaincy he was rapidly promoted to lieutenant-colonel, colonel, brigadier-general, and finally, at the close of the war, was in command of Early's Division, with the rank of major-general. His promotion to this high command was recommended, but owing to the unsettled condition of affairs near the close of the war, the commission was not issued. He participated in the battles of First Bull Run, Front Royal, Winchester, Cross Keys, Port Republic, Gaines Mill, Malvern Hill, Cedar Run, Second Bull Run, Ox Hill, Fredericksburg, Second Winchester, Gettysburg, Payne's Farm, Mine Run, Wilderness, Spottsylvania Courthouse, Fort Stedman, Petersburg, Sailors' Creek, and laid down his arms with his comrades at Appomattox.

None of the boys who wore the gray and participated in the great battle of Spottsylvania Courthouse will ever forget how shot and shell flew thick and fast at the "bloody angle." At

this point, while gallantly leading his command, on May 12, 1864, General Walker was severely wounded in the left arm. This wound prevented him from participating in active service for months. However, before he was fully restored to health and strength, he reported for active duty and appeared at the head of his brigade, with his arm in a sling. Surrounded by his men at Appomattox, he received the news of Lee's surrender. Many of his old comrades state that he wept like a child, and made his men a speech, that for eloquence and pathos, will ever be remembered by those who heard it.

On the 30th day of May, 1892, a magnificent monument to Lieutenant-General A. P. Hill was unveiled in Richmond. General Walker had succeeded General Hill as colonel of the noted and chivalrous Thirteenth Virginia Regiment. His old comrades in arms, therefore, chose him as the orator of the occasion. He was presented to the vast audience by Rev. J. William Jones, the "Fighting Parson," who said he would "simply announce, not introduce, the orator, General James A. Walker, more familiarly known as Stonewall Jim Walker, the fighting general of the Army of Northern Virginia."

James A. Walker was brave to a fault. But he was as generous and magnanimous as he was brave. Not one of his old comrades, who had lost his all by the "crimson tide of war," ever appealed to him for help, in vain. In the annals of this great struggle between the Northmen and his warm blooded, courageous brother of the South its story is studded with brilliant achievements and terrible losses that gave proof of devotion to the Southern cause. And this cause had no more chivalrous champion than Walker, the lion-hearted. "As a soldier no knight that followed the fortunes of the lost cause yielded a more stainless blade." He was in very truth a warrior "without fear and without reproach."

The great struggle being over, he was one of the first to realize it, and at once bent all his energies to a new public life, and to building up the waste places. He returned home without means and without property, to again resume his law practice, which had been so rudely disturbed for four years. At this time he

was thirty-three years of age. Many of the former members of the bar had yielded their lives a willing sacrifice on the altar of their country's devotion. Therefore, when General Walker returned to Newbern to practice, he found the old familiar faces gone, the places that had once known them never to know them again forever. He almost immediately organized a co-partnership with Mr. John B. Baskerville, one of the most learned and accomplished lawyers Southwest Virginia ever produced—who is still living in Newbern, nearly ninety years of age—and with that indomitable will and energy so characteristic of him, went to work. The firm soon sprang into great prominence in the section in which its members practiced. It was retained on one side or the other of all important cases in Pulaski and adjoining counties, a large measure of its success being due to General Walker's great power and ability as an advocate.

The Virginia Reports abound in cases in which he appeared as counsel in the Supreme Court. Many of them settled principles of the greatest importance to Bench and Bar, and no higher tribute can be paid the great advocate than to call the attention of my professional brethren to a few of them, and to the points and principles which they decide. These cases commence as far back as 21 Grattan.

In *Mitchell v. Thornton*, 21 Gratt., which was a road case, it was held that land, whether its value be great or small, could not be taken for public purposes without just compensation to the owner, and that if certain motions were not made in the court of original jurisdiction, they were waived in the appellate court.

The case of *Carroll County v. Collier*, 22 Gratt., was a suit brought by a contractor to recover an alleged balance for building a jail, and the court decided that an order entered by the County Court, appointing commissioners to examine the jail, was not a judgment of that court, and, therefore, not an estoppel.

In the case of *Trout v. Virginia & Tennessee R. R. Co.*, 23 Gratt., the important principle was settled beyond all question

that a party has a right to demur to the evidence, and an action for negligence was no exception to the rule. It was also decided in this case that the railroad company, in the absence of any statutory rule on the subject, was liable for stock killed on its track, if on the track without the negligence or default of the owner, and the engineer failed to take proper care to avoid the injury.

In *Ewart v. Saunders*, 25 Gratt., the doctrine is laid down that the statute prescribes no particular mode by which it shall be made to appear that the rents and profits will not pay the judgments against a defendant in five years.

General Walker was one of the most powerful prosecutors that ever appeared before a jury in criminal cases. Like a mighty tornado, he swept everything before him. In 1873 he was retained in the county of Carroll to prosecute Leftwich Stoneman for the murder of Annuel Edwards. Stoneman was defended by the late J. W. Shelton and the late Judge Tipton, two eminent lawyers. The jury found the accused guilty of murder in the second degree. The case went to the Supreme Court, and is reported in 25 Gratt. Judge Staples, in a most able opinion, laid down the doctrine of the right of self defense in Virginia. There is hardly a murder case in the courts of the Commonwealth in which this opinion is not used and referred to, and it is regarded as a leading case.

In *Sayers v. Wall*, 26 Gratt., the doctrine was laid down that a conveyance from husband to wife and children in 1855, though not founded on a valuable but only on a meritorious consideration, will be given effect in a court of equity as against the subsequent creditors of the husband.

The case of *Kent's Admr. v. Kent's Admr.*, 28 Gratt., was an action on a bond for fifty-six hundred dollars, dated the 6th of June, 1845, payable on demand. The Circuit Court in rendering judgment, abated the interest from the 17th of April, 1861, to the 10th of April, 1865. The Supreme Court, in an opinion by Judge Moncure, held that the bond was payable *presently*; that it bore interest from date; that there was an

implied contract to pay interest; that the act allowing the abatement within the periods mentioned impaired the contract and was null and void.

In the case of *'Oltrane v. Worrell*, 30 Gratt., the important doctrine was reaffirmed that a trustee cannot derive profit from the trust-fund without rendering an equivalent therefor. He is bound to execute the trust for the benefit of the *cestui que trust*, whether the latter live at home or abroad, or whether the trust is to be executed in peace or in war.

The case of *Grubb v. Wysor*, 32 Gratt., was a controversy between creditors over a certain fund claimed by each. Judge Burks laid down the doctrine that while a surety who pays a debt of his principal will, ordinarily, be subrogated to all of the lien rights of the creditor, when the latter has no longer occasion to hold them for his own protection, equity will never displace the creditor to his prejudice merely to give the surety a better footing.

On the 4th of April, 1877, the Legislature passed the first married woman's act for Virginia. This law made radical changes in the property rights of husband and wife. By a singular coincidence General Walker happened to be counsel in three of the first cases that settled principles of great importance under the act.

In the case of *Breeding v. Davis*, 77 Virginia, a creditor sought to subject the husband's interest in the wife's land as tenant by the courtesy initiate to the payment of his debt. The Supreme Court held that the act had abolished this common law interest of the husband in the wife's real estate, and that, therefore, the husband had no interest in the wife's land that could be sold until her death.

In the case of *Alexander v. Alexander*, 85 Virginia, it was held that the Married Woman's Act was an enabling act, and should not be construed strictly nor technically, but fairly, and that not only was tenancy by the courtesy initiate destroyed by the act, but the husband's common law right to reduce into his possession her choses in action, was likewise destroyed.

The case of *Crockett v. Doriot*, 85 Virginia, held that where a married woman gave her note for merchandise, and after the execution thereof acquired lands, the lands were not liable for the payment of the note.

By an act approved March 7, 1900, the Legislature destroyed whatever force these decisions may have had, by placing the wife on the same plane with the husband in reference to her estate.

General Walker's success in defending criminals was phenomenal. He defended many a man charged with the greatest crime known to the law, and his boast was that he had never had a client hung. He came near breaking his excellent record in this respect in the case of the *Commonwealth v. Robert L. Tilley*, which was tried in Carroll county. Tilley, a strong, active young man, was indicted for the murder of his paramour, Louisa Haynes. The circumstances were very suspicious, and the feeling against the accused was intense. General Walker was retained to defend him. With all the ardor of his soul he believed the evidence was not sufficient to convict his client. Upon the trial, however, Tilley was found guilty of murder in the first degree and sentenced to be hanged. On a writ of error the case went to the Supreme Court, where it was affirmed by a court of three judges. See *Tilley's Case*, 89 Virginia. General Walker obtained a rehearing, and when the case came on to be heard before the full bench, the judgment of the lower court was reversed, and the case sent back for a new trial. So it will thus be observed that Tilley, by the Virginia Reports, has been hung and has not been hung, a distinction enjoyed, perhaps, by no other man. He owed his escape to the great ability and zeal of his faithful counsel.

In the latter part of the year 1893, the courthouse at Newbern, the county seat of Pulaski county, was destroyed by fire. At once, there arose the cry from certain sections of the county, remove the courthouse to Pulaski, because of its better location. Feeling ran high between the contending factions. The friends of removal secured an act from the Legislature authorizing a

vote. This vote resulted favorably to Pulaski. The friends of Newbern appealed to the courts. The legal battle was a long and bitter one. General Walker, in conjunction with Judge A. A. Phlegar, appeared for Pulaski. They won their case in the Supreme Court, and the courthouse was removed to Pulaski. See *Ingles v. Straus*, 91 Va.

There are but few Virginians living who will soon forget the unfortunate real estate "boom" of 1891. After its collapse, cases against the corporations sprang up all over the State. The case of the *Max Meadows Land & Improvement Co. v. Brady*, 92 Virginia, was one of the first of such cases to reach the Supreme Court. General Walker was counsel in this case against the company. In an opinion by Judge Keith, unusually strong and clear in its reasoning, the doctrine was established that the numerous high flown advertisements issued by such companies were expressions of opinion, and not representations of fact. This case put to sleep forever a large proportion of the boom cases throughout the Commonwealth.

The case of *Spence & Neff v. Norfolk and Western Railroad Co.*, 92 Virginia, in which General Walker appeared as counsel, decided an important principle. The suit was by consignors to recover of the railroad company the value of certain produce shipped by them and which was damaged *in transitu*. The defense was, that the consignors had parted with all their interest in the goods and, therefore, could not maintain their suit. The Supreme Court held that a consignor who has made a special contract with the carrier to carry the goods, whether he has any interest in them or not, or who has any interest or property in the goods, general or special, may maintain an action against the carrier for their loss or damage if not delivered in a reasonable time.

One of the most interesting legal combats in which General Walker was ever engaged was that of the *Commonwealth v. H. G. Wadley*, president of the late Wytheville Insurance and Banking Company. In 1893, on the motion of a creditor, a receiver was appointed for the company by the United States

Circuit Court, and the cause very soon referred to a commissioner. In the progress of the account before the commissioner it was developed that a large amount of the moneys and assets of the company had been abstracted by the president. Accordingly, the grand jury for Wythe county, on the 16th of May, 1894, found an indictment against Wadley for the alleged embezzlement. Very soon thereafter Judge Goff, of the United States Circuit Court, on the bill of Wadley, granted an injunction restraining the Commonwealth's Attorney for Wythe county and others, from prosecuting the indictment. In an able article on the subject to be found in 1 Virginia Law Register, 79, General Walker vigorously combated the right of a Federal judge to enjoin a prosecution in a State court, and he lived long enough to see his views fully vindicated by the Supreme Court of the United States, where the decision of Judge Goff was reversed. See 172 U. S., 149.

Not one-tenth of the cases in which General Walker appeared as counsel before the highest court of his State have been referred to in this article. Such a task would be impossible. Frequently when the court met in its annual session, at Wytheville, he would appear in as many as twenty or more cases during the term, and he always argued them with masterful ability. He also appeared as counsel in *Hall's Case*, in Montgomery county; in *Feagle's Case*, Pulaski county; in *White's Case*, Washington county, all noted criminal cases, and in many others that never found their way to the Supreme Court.

General Walker was a great lawyer. He had few equals, and no superior at the Virginia Bar. He easily ranked as a practitioner with such contemporaries as William J. Robertson, Waller R. Staples and Edward C. Burks.

“He waived his scepter o'er his kind
By nature's first great charter, mind.”

As honest with his clients as a Roman judge, he realized in the language of Bacon, that “the greatest trust between man and man is the trust of giving counsel.” With an energy that

knew no bounds, with a capacity for work that knew no limit, with ability of the highest order, he overcame all obstacles, and often snatched victory from defeat.

General Walker was nominated soon after the close of the war for Lieutenant-Governor, was twice elected to the Legislature, was several times a prominent candidate for Governor, was elected to the Fifty-fourth and Fifty-fifth Congresses, and four times received the unanimous nomination of his party for this high office.

Commanding and martial in his bearing, he possessed a striking and charming personality, and justly had a host of friends all over the "Old Dominion." His nature was intense, and if he had enemies, which every man of strong convictions will have, all animosity seemed to have been buried with him on the day he was quietly laid to rest in the cemetery. His funeral was the largest ever seen in Wytheville, his friends and neighbors from far and near uniting in paying respect to the memory of a just, a fearless and a noble man.

"Oh, fall'n at length, that tower of strength,
Which stood four square to all the winds that blew."

Wytheville, Va.

WALLER S. POAGE.



THOS. M. MILLER

THOMAS MAURICE MILLER.

Judge Thomas Maurice Miller died at his home, at Powhatan Courthouse, on the 11th day of July, 1902, in the fifty-sixth year of his age. He was born on the 25th day of December, 1846, in Powhatan county, and was the only child of Maurice Miller, a lawyer of eminence and high character. His grandfather was the Hon. Thomas Miller, a leading lawyer, and for many years a member of the State Senate of Virginia, and his great-grandfather was also a lawyer of distinction.

When but an infant, Judge Miller's father and mother both died, and he was raised as practically an adopted son by the late Major and Mrs. Willis J. Dance, Mrs. Dance being the sister of his father, and Major Dance his father's partner. Their only child having died when only a few weeks old.

He was only a boy when the war broke out, but when the Powhatan Artillery, afterwards known as Dance's Battery, was organized, he enlisted and remained in that company until he surrendered at Appomattox Courthouse. As a soldier, he was faithful in the discharge of his duty, fearless in battle, conspicuous for bravery at Spottsylvania Courthouse and on other occasions.

After the war he read law with his uncle, the late Major Willis J. Dance, and shortly after getting his license became his partner. In May, 1870, he was appointed Commonwealth's Attorney of Powhatan, and in November, 1870, he was elected to that office and continued to hold that position until July, 1879. Afterwards, he moved his office to Manchester, Va., and was elected Commonwealth's Attorney of that city, holding the office for some years, and finally declined to be a candidate for re-election. He was elected to the Legislature, serving the session of 1885-'86, and taking a high stand in that body.

On the death of Major Dance, Judge Miller, though he had built up in his new home a fine practice, gave up many of his

cherished plans, and moved back to take care of his aunt, who was all alone and whose health was not the very best. On March 9, 1893, he was appointed by Governor O'Ferrall judge of the counties of Powhatan and Cumberland to fill the vacancy caused by the death of Judge William Pope Dabney, and giving great satisfaction, was afterwards elected to the same office and served until the time of his death.

Judge Miller married Miss Anne Patteson, a daughter of the late Dr. Patteson, of Manchester, Va. She graced and adorned their lovely home, and she, with their one daughter and three sons, mourn their loss.

As a lawyer, Judge Miller was scrupulously honest, faithful to his client's interest; always and at all times a perfectly fair and equally fearless opponent. He advised his clients to fight for their rights, but only for their rights, and whether successful or defeated at the Bar he had the respect of the judges before whom he practiced, and the love and admiration of his fellow-members of the Bar. He was one of those lawyers, of whom there have not been a few in Virginia, whose conduct and character were felt in whole communities in support of fair dealing between man and man, and the higher ideals in private and public life.

As a judge he knew neither friend nor foe. Though always, and on all occasions, he had voted with the Conservative or Democratic party, and had taken part in all of its warm campaigns, as a judge he knew no party, and his determination to give each one his rights under the law was such that he earned the confidence of all classes and of all parties. Upon the Bench he was dignified, without being a martinet, learned without being pedantic, and as he had been at the Bar, always courteous and genial, never losing sight, however, of the truth and the right.

In the various public positions which he held, his character was such that even in hotly contested campaigns no man ques-

tioned his integrity. In the discharge of his duties even slander dared not charge him with betrayal of public trust for private advantage.

Born and raised a gentleman of rare wit and humor, his anecdotes were clean; his opponent, even in debate, feeling the force of the blow, never failed to understand there was no venom in the stroke. Always brave, honest, courteous and genial, winning the admiration of all, as boy, soldier, lawyer and judge, of him it was always true that those loved him best that knew him best.

WILLIS B. SMITH.

JOHN PAGE.

Since its last annual meeting this Association is called upon to mourn the loss of its oldest and one of its most honorable members, John Page, who died at his home, Oakland, in the county of Hanover, at a ripe old age, on October 30, 1901.

Major Page, as he was known to his brethren of the Bar and the community generally, for nearly forty years of his life, was a son of Francis Page and Susan Nelson, and was born in Hanover county April 26, 1821, and was, therefore, at his death, in his eighty-first year of age. In his early boyhood he attended Bishop Meade's school, in Frederick county, Va., and was at Bristol College along with his fond friend, the late Judge W. S. Barton. He afterwards taught at the Episcopal High School, near Alexandria, and read law with Henry Winter Davis in that city. Thereafter, he graduated in the law at the University of Virginia, under that eminent jurist and instructor, Judge Tucker, having among his classmates John Randolph Tucker, Colonel John Thornton and others, who afterwards became distinguished members of the profession. Returning to his home, in Hanover, he was married to his cousin, Elizabeth Burwell Nelson, and practiced successfully his profession in the courts of Hanover and the adjoining counties until the beginning of the Civil War, in 1861, when he promptly enlisted as a private in the "Patrick Henry Rifles," among the first troops that went forward in defense of their State, and served in that line of duty until after the first campaign of the war, when he was appointed, with the rank of captain, and was afterwards promoted to that of major, on the staff of his brother-in-law, General W. N. Pendleton, who afterwards

became General Lee's chief of artillery. In this latter position, Major Page served gallantly until the close of the war. From Appomattox, he returned to his old home to take up his chosen profession, and again became a familiar figure at the old historic courthouse and upon the hustings, and well maintained himself as a lawyer beside his able and distinguished brethren who were regular practitioners before and after the war at the Hanover Bar. Among these were John A. Meredith, James Lyons, C. G. Griswold, John B. Young, W. W. Crump, Alex. H. Holladay, William R. Winn, E. W. Morris, Chastaine White and William R. Aylett, all of whom he survived.

For four years he was the attorney for the Commonwealth in Hanover, and performed the duties of this office, as he did those of every other trust committed to him, faithfully and well. He was proud of his profession, and honored and respected his brethren at the Bar, and was especially kind to the young practitioner. Though firm in his convictions, and to a marked degree fearless, he sought to be just and fair as an advocate, and becomingly respected, at all times, the opinions and feelings of others. Being of a nervous and impulsive temperament and quick at repartee, he was often heard to make curt, and sometimes sarcastic, remarks about the conduct or ideas of others, but they were devoid of malice or a purpose to wound the feelings of anyone, and served only, as they were intended, to amuse his hearers, whether a victim of his wit and humor or not, for he was well known to be of a genial, kindly nature, which, together with his many excellent qualities of head and heart, drew to him hosts of friends.

While in his association with his brethren at the Bar, and his fellow citizens upon the hustings, he was always attractive and companionable. Major Page was perhaps at his best in the sacred precincts of his home. There he was ever tender and devoted to his family, and there he and his accomplished wife dispensed hospitality in the entertainment of their friends after the manner of the good old days of this Commonwealth, when she became famous for the hospitality of her citizens. To that home the poor constantly came for help, and it may be

safely said that none was ever turned away empty-handed. Those in affliction in the community always had the sympathy of the family at Oakland, and if anything could be done for their relief or comfort, it never went undone. To such an extent was this the case that when Major Page passed away there was sorrow in the humblest home in that community, and when his body was laid to rest at the Old Fork church, of which church he was a member and a faithful worker in the cause of Christianity for many years, the outpouring of his neighbors, regardless of class, afforded abundant testimony that he was greatly esteemed and beloved by all the people of the locality in which he had spent his entire life, with the exception of the period through which he served his State in war.

His widow and three sons, two of them honorable members of this Association, and the other a clergyman greatly beloved and of high standing in the Episcopal church, survive him. At the first term of the County Court of Hanover county after his death, a meeting of the Bar, largely attended by citizens of the county, adopted appropriate resolutions, giving expression to the high esteem in which the deceased was held by the Bar and the people generally, and of the sympathy they bore to his family in their sorrow, which resolutions were made a part of the records of the county. Upon the first roll of the membership of this Association appears the name of our departed brother, and from the organization of this brotherhood, in 1888, until deprived of the privilege by impaired health and wasted strength, he never failed to attend its annual meeting. None took greater interest in the Association than he did, and none believed more implicitly than he that the Association would accomplish great good by the influence it would wield over the members of our profession throughout the State. Old age gradually deprived him of his strength, and to this enfeebled condition was added, some months prior to his end, a broken limb, which rendered him a helpless invalid; yet, with cheerfulness, patience and submission, he awaited his final summons, which he well knew was soon to come; and, with a religious faith, firm and unshaken, he looked forward to the sunset of his

life, not as the coming of an endless night, but as the dawn of a brighter and endless day of peace and rest. Thus, calm and resigned, surrounded by an affectionate family and devoted friends, our distinguished brother and ever faithful friend, passed to his reward, and the memory of him will be cherished by us all, but most in the hearts of those of us who knew him best.

R. H. CARDWELL.

GEORGE A. MUSHBACH.

George Augustus Mushbach was born in Sussex county, New Jersey, in January, 1850, and died in the city of Alexandria on December 27, 1901.

He came of a distinguished line of ancestors, many of whom held important positions of trust in their State. He was a grandson of the late Senator Edsall, of New Jersey, who formerly owned a fine estate near Alexandria, known as "Edsall's Hill."

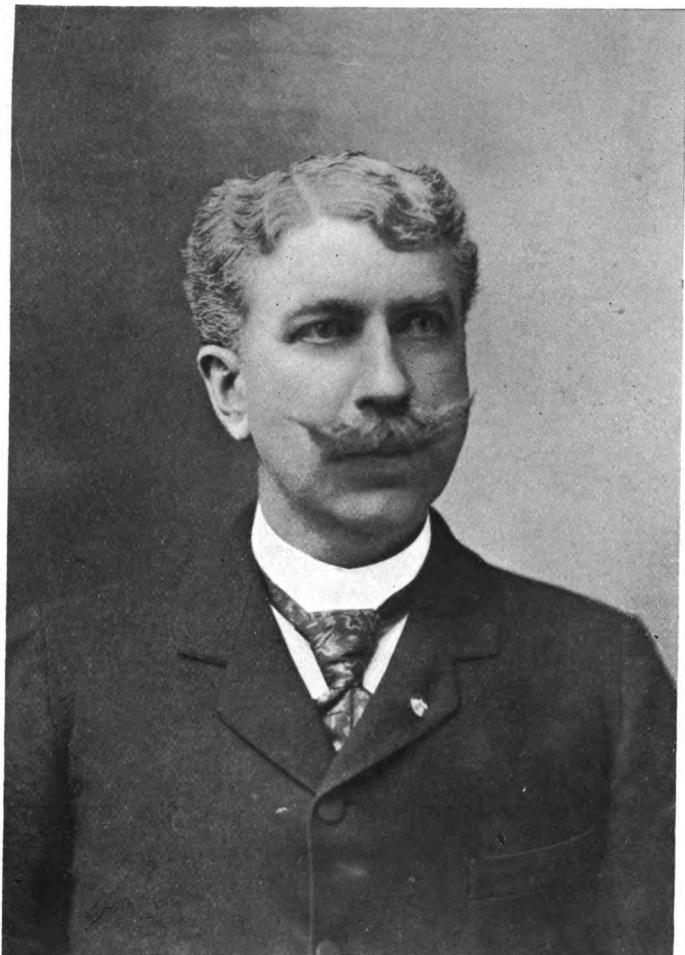
Having received an excellent education at Rutgers College, he came, when about seventeen years of age, with his mother, a brother and a sister, to Alexandria to reside.

He was always most loyal to Virginia, his chosen home, and no native son has ever cherished the glorious history of this old Commonwealth more zealously, or with more pride, than he, and few have been more ready at all times to serve Virginia, even though the rendition of the service caused pecuniary loss to him.

Shortly after his arrival in Alexandria he began the study of law in the office of the late Francis L. Smith, who for many years was one of the ablest members of the Bar of this State, and from the commencement of his studies, Mr. Mushbach showed a remarkable aptitude for his chosen profession and proved himself a pupil worthy of his distinguished instructor.

He was admitted to practice at the threshold of manhood, and soon became one of the leaders of the Bar of Northern Virginia, and few attorneys in that section of this State have enjoyed a wider or more lucrative practice than he did for many years; he formed a partnership with the late M. D. Ball, and subsequently with the late C. W. Wattles, and after the death of the latter he practiced alone.

His mind seemed to be naturally adapted to the solution of legal questions, and although he was peculiarly gifted as a speaker, he never depended on his oratorical abilities in the



GEO. A. MUSHBACH

trial of a cause, but was always thoroughly prepared to discuss and sustain by authorities any question which arose during the trial, thus showing the most painstaking and accurate preparation of his case.

He was an unusually handsome man, and his fine voice and appearance, combined with his great legal ability, made him a dangerous opponent to any member of any Bar.

In the course of his practice he was opposed in many important cases by some of the ablest attorneys in this and other States, and it was always conceded that either before the court or jury he was a foeman worthy of their steel.

He was never known to take an unfair advantage of an opposing attorney, and no member of the Bar observed more strictly the code of legal ethics or practiced law on a higher plan.

Mr. Mushbach took a most active interest in public affairs from the time he attained his majority, and early in the seventies he was elected a member of the City Council of Alexandria, in which position he served his ward most acceptably for many years.

In 1877 he was elected a member of the House of Delegates of this State, where he served the city and county of Alexandria for several terms. He was afterwards chosen to represent the city and county of Alexandria, the county of Fairfax and the county of Prince William, in the State Senate.

As a legislator he became widely and favorably known, and both in the House and Senate he was recognized as a leader; as a parliamentarian and as a debater he had few equals, and he took a prominent part in the leading debates in both branches of the State Legislature while serving his constituents therein.

But it was probably as a political speaker that Mr. Mushbach's great abilities as an orator and a debater became most generally known, and this, too, when he was but twenty-nine years of age.

In the campaign between the Readjusters and the Conservatives, he was regarded as one of the ablest of the many able speakers for the latter, and in joint debates with such well-

known and able stump speakers as ex-Governor Cameron, the late Judge Paul and the late John E. Massey, Mr. Mushbach, according to the verdict of impartial judges, fully held his own.

He was, too, a man of great executive ability, which he displayed in making the Alexandria Light Infantry, of which he was captain for ten years or more, one of the best drilled and most efficient military organizations in the South.

Under his command this company received many prizes in competitive drills, having been awarded first prize in the State drills at Lynchburg on August 7, 1884; second prize at Richmond on October 24th of the same year; first prize at Lynchburg on October 15, 1885; first prize at Richmond on October 20, 1886, and second prize at Richmond the following year; in 1887 they also received a prize at the International Drilling Contest, at Philadelphia.

At the time that Mr. Mushbach was elected captain of this company, in the latter part of 1882, or early in 1883, he knew absolutely nothing of military affairs, never having attended a military school and never having been a member of a military organization. The above mentioned successes of his company are good illustrations of the indomitable energy of the man, as well as of his studious nature, tactics having been mastered by him at odd moments during busy days, and, we are informed by one of his former lieutenants, that a company of blocks, which he always kept in his office desk, were used by him in working out the most difficult maneuvers.

In December, 1886, Captain Mushbach married Miss Eva B. Gwynn, the handsome and accomplished daughter of the late Bennett F. Gwynn, of Baltimore, and his devotion to his wife from the date of their marriage to the day of his death served well to illustrate that "the bravest are the tenderest, the loving are the daring."

Although not a member of any religious denomination, he was never a scoffer at the beliefs or opinions of others, and he despised insincerity and hypocrisy above all things.

He was beloved by high and low, by rich and poor alike, and although it is true that few men are so gifted as was Captain

Mushbach, yet it is also true that few men have employed their splendid talents with greater regard for the welfare of the communities in which they lived and for the advancement of the best interests of the State they called their own, and few lawyers have been greater ornaments, in the highest and noblest meaning of that word, to the Bar of the State of Virginia than was George A. Mushbach, of Alexandria.

GARDNER L. BOOTHE.

*LEONARD MARBURY.

At a Corporation Court of the city of Alexandria, continued and held at the courthouse of said city on Thursday, June 26, 1902. Present, Hon. J. K. M. Norton, Judge.

The resolutions recently passed by the Bar Association of Alexandria, in respect to the memory of the late Leonard Marbury, were presented and read by K. Kemper, Esq., and the court ordered the same spread upon the minutes. The resolutions are as follows:

The members of the Bar of the city of Alexandria have received with deep and unaffected sorrow the announcement of the death of Leonard Marbury, our distinguished fellow citizen, and for many years our beloved associate, who died in the meridian of his career on the morning of June 14th.

He had suffered for many months from a painful and protracted illness, which he bore with Christian fortitude and resignation, and although his death was not unexpected, it has come to his surviving associates as a great personal bereavement, and we feel that our loss is irreparable.

Leonard Marbury was born in this city in the year 1856 and resided here all of his life.

His education was begun at St. John's Academy, in this city, and, after completing his studies at that institution, he entered the law class of Columbian University, in Washington, D. C., from which university he received the degree of Bachelor of Laws. He at once begun the practice of his chosen profession here, and by his integrity, his industry and his attention to matters intrusted to him, he soon attained a prominent place at the Bar, and by his uniform courtesy and genial manners became a great favorite with all classes in this community.

For more than twenty years he filled, with credit to himself, and with entire satisfaction to the people, the office of Commonwealth's Attorney.

* Taken from the Minutes of the Corporation Court of the city of Alexandria.



LEONARD MARBURY

He was also active and influential in the politics of the State, having for many years held the position of Chairman of the Democratic Committee of the Eighth Congressional District.

By the death of Leonard Marbury the Bar of this city has lost one of its most prominent and popular members; the city a citizen ever alive to its best interests, and his family a loving and faithful husband, father and brother.

Resolved, That we tender to the family of the deceased our sincere sympathy in their sore bereavement.

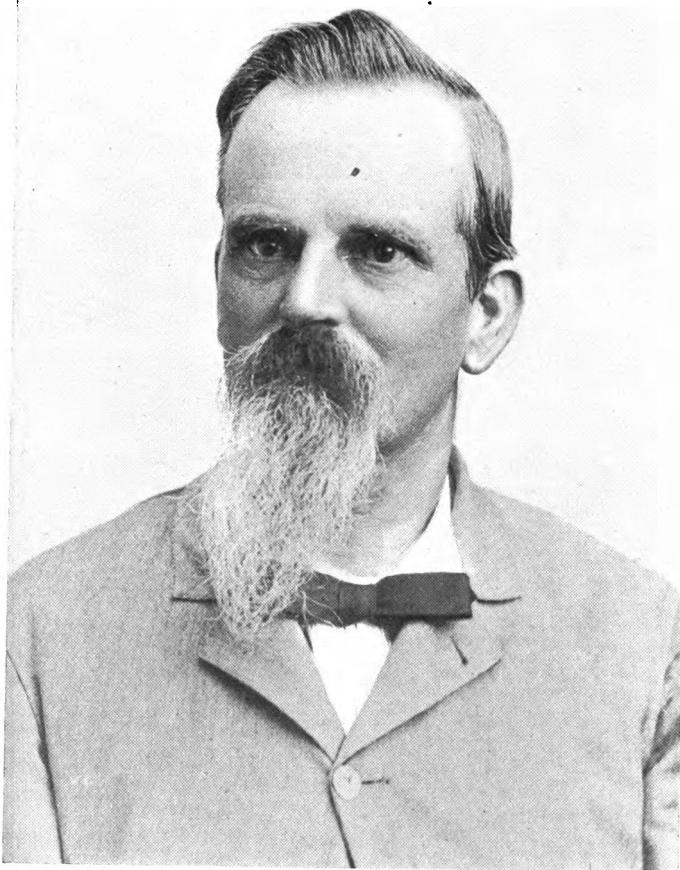
Resolved further, That a copy of this tribute be sent to the family of the deceased and given to the press of this city.

Resolved further, That K. Kemper and Gardner L. Boothe, who are hereby appointed a committee for the purpose, do report these proceedings to the several courts of this city and county, with the request that they be spread on the records of said courts.

HONORABLE ARTHUR S. SEGAR.

There are times, when in the busy whirl of life, it is well to pause and contemplate the past and look toward the future, and there can arise in our lives no better occasion than the death of a good man. Such an occasion comes with startling suddenness in the death of the Honorable Arthur Simpkins Segar, of Hampton, Va., born in Accomac county, on the 9th day of October, 1844. At an early age he lost his father; such a disaster may overwhelm the weak, but it calls forth all the strength of the strong. His uncle, the Honorable Joseph Segar, took charge of the fatherless boy, and our friend never wearied telling of the kindness of his uncle.

When the storm-cloud of war burst over the old State in the fateful year of 1861, young Segar was among the first to tender to her his services. The regiment in which our departed friend served was the famous 32d Virginia Infantry, which on so many battlefields covered itself with glory. It was from this regiment, after the war had ended, that there came so many bright lights to the Virginia Bar. Naming them at random, there were Edgar B. Montague, its Colonel; William R. Willis, its Lieutenant-Colonel; Baker P. Lee, its Major, and Arthur S. Segar. Mr. Segar was promoted Lieutenant, when a mere boy, and when but nineteen years of age won imperishable renown at Gettysburg. It was there that he carried twenty men into the action and lost eighteen and himself was struck four times. The halo of glory that decks the brows of the Confederate soldier will grow brighter as the time goes on. After the war had ended, the people of Virginia were called upon to send their best and wisest men to the General Assembly and the choice of Elizabeth City fell upon young Segar. The task before the Legislature was Herculean—a devasted territory, desolute



A. S. SEGAR

homes, children without fathers, fatliers without children—and confronting this awful condition the people of the old State lifted their stricken heads and declared that they would face the future with the same patient courage that they had the past. It was upon the history of the State at that time, that young Segar left his impress. There are few heroes in the world, who happily unite unflinching physical courage with that higher moral courage, which dares to do right, because it is right, such a man was Arthur S. Segar; true in all the relations of life; as a lawyer he was courteous, strong, brave and always fair; as a citizen, without reproach; as a Christian, humble and devout, and when the dread summons came, he could "wrap the drapery of his couch about him, and lie down to pleasant dreams."

Mr. Segar for many years represented three of the largest corporations in the State, and yet he died a poor man. Not many weeks before his death, he said to the writer, that, if he had known how to charge, he would have been a rich man. On the 28th day of November last he died very suddenly. In the very zenith of his powers, he was stricken down without premonition, but the dread summons did not find him unprepared, for his life had been an epistle known and read of all who came in contact with him.

As the telegraph flashed abroad the sad news that the gallant soldier, the patriotic statesman, the learned and brilliant lawyer and the devout Christian was no more, many a head was bowed in grief, but we grieved not as those without hope, for we cherish the fond trust of one day meeting him beyond the stars. The astronomers tell us that there are some stars so far above the earth that long after they have disappeared in space their light is still coming to the earth, and so there are some men whose characters are so high that long after they have left the earth the light of their lives is still falling upon the pathway of men. "Though dead, they yet speak." Such a man was Arthur S. Segar; one who stood "four square to every wind that blew." We can stand with uncovered heads at his grave and say, here

lies a "MAN." Cut off in the fullness of his powers and usefulness, we mourn his departure, because it will be difficult to fill his place, because a useful man, an ornament to society is gone.

"He is gone to the mountain,
He is lost to the forest,
Like a summer-dried fountain
When our need was the sorest."

The writer feels how inadequate are words to express his thoughts and feelings, and lays this leaflet on the new-made grave of a dear friend.

MARYUS JONES.



ARCHER L. PAYNE

ARCHER LANGHORNE PAYNE.

At each recurring gathering of this brotherhood of Virginia lawyers, the joy of hand-shake and of sight of "the old familiar faces" is tinged with an inevitable hue of sadness, caused by the thought of those comrades who, since the last meeting, have fallen out of the ranks of the Bar and out of the dust and struggle of life.

It is right and proper that we should give some permanent expression of our regard for them and of our regret that they are no more with us. It is my purpose to perform, as briefly and sincerely as possible, this service to one of my friends, who was for many years a faithful member of this Association.

Archer Langhorne Payne was the eldest son of Captain John Meem Payne and Elizabeth Allen (Langhorne) Payne, and was born on September 24, 1864, at "Walnut Grove," Montgomery county, Va., the home of his maternal grandfather, John Archer Langhorne. After the war his parents resided at "Rosalba," a farm in Campbell county, near Lynchburg, where young Payne grew up.

He graduated in the High School at Lynchburg, in 1881. After this he taught school for one session, and then he took the first real steps in the direction of the profession, upon which he had set his heart and mind. He obtained a position in the clerk's office of the Corporation Court of Lynchburg, wherein he remained for five years, but finding time during the last two years of that fine preliminary training school for a lawyer to attend two of the sessions of the Summer Law School of the University of Virginia. He then left the clerk's office at Lynchburg and came to Roanoke to practice law.

At first he formed a partnership with that brilliant and gifted young lawyer, Henry Gibson, whose sudden and untimely death soon put an end to this partnership so filled with promise.

After this he formed a partnership with W. O. Hardaway, and this association, like the other, was in a few years dissolved by the long illness and subsequent death of his partner. After that, Payne continued to practice law alone in Roanoke, until the first day of October, 1900, when he went to the city of New York to live and practice his profession. Reports came from him from time to time, indicating that he was doing well and his prospects were bright, but suddenly in the winter of 1900, the fell destroyer, consumption, seized upon him and he was brought home in the spring of 1901, a man doomed to die in the noonday of his manhood.

With noble patience, with manly courage, he bore his last illness and faced oncoming death, until with a mind clear, a heart pure and a conscience clean of offense, he rendered up his spirit on the 16th of September, 1901.

This is the brief outline of his life. It was filled with activity and a steady and unflagging performance of the duties of his profession. To all business assigned him, he gave a minute and careful attention that is rare. His integrity was recognized by every member of the Bar. By hard work and unaided energy and perseverance, he won his way up from the position of deputy clerk to that of attorney-at-law, engaged in important cases; and many years before his death, had crossed the Rubicon of a young lawyer's career and had argued, and argued successfully, cases of importance in the Court of Appeals. What he would have become, as a lawyer, death forbids us to know; but we know he was faithful and accurate, attentive and studious, and more concerned for his clients' interests than for his own, and that he had measured spears successfully with some of the strongest members of the Bar.

The writer does not believe, altogether, in the phrase born, perhaps, of a noble feeling, but yet based to some extent, too, on a sickly sentimentality—

"De mortuis nil nisi bonum."

Let us rather speak the truth, *if it be necessary*, than to give lying epitaphs of the dead. But, when I come to consider the

moral character of the man of whom I write, I can speak the words of truth and soberness, without reserve, and say of him, he was every inch a *gentleman*, in the truest and highest sense of that word. He was courteous, polite and gentle in his manners to all, but when duty or honor called, capable of a noble and courageous sternness.

“ Whatever record leap to light,
He never shall be shamed.”

I forbear to speak of him as a friend faithful and true. This would be too personal. Let this brief sketch of him pass as the record of one who knew him intimately for many years, and who can say of him, with all truth, he was one worthy to be trusted and loved, in every relation of life.

WM. GORDON ROBERTSON.

ANTHONY W. ARMSTRONG.

Anthony W. Armstrong, a son of John Thompson Armstrong, was born in the city of Alexandria, Virginia, and died there at the age of forty-seven years, on December 24, 1901. He graduated with highest honors from St. John's Academy in that city before he was fourteen years of age, and for some time thereafter was clerk in a wholesale grocery store in Old Liberty Hall building. Subsequently he commenced the study of law at the National Law School in Washington, and graduated from that institution before he reached his majority. He then became Deputy City Sergeant, under Mr. Robert Lucas, and during this period he served as Chairman of the City Republican Committee. About the time Mr. Lucas went out of office Mr. Armstrong began the practice of law. His rise was rapid, and he retired from active political life and devoted all his energies to his profession. He soon acquired all the business to which he could attend, and for some years before his death his practice was probably one of the most remunerative in his section of the State. The Washington, Alexandria and Mount Vernon Railway was one of his late valuable clients, and his election as counsel for this corporation indicates the esteem in which he was held in his community, and the appreciation entertained for his legal ability. He was also a past master of Alexandria-Washington Lodge, No. 22; and a member of the Mount Vernon Royal Arch Chapter, and Old Dominion Commandery, Knights Templar.

Hon. James R. Caton writes: "Mr. Armstrong was a gentleman of high character, fine social qualities, and possessed of a kind and genial disposition, which won to him a host of friends, and made him deservedly popular among his fellow citizens. He was always kind, affable and generous. He was



A. W. ARMSTRONG

a lawyer of exceptional ability, and eminently successful in his profession, and was held in high esteem by his brother lawyers, as well as by all the courts before whom he practiced, and I know of no citizen in Alexandria who was held in higher estimation, or possessed more sterling qualities of character than the late Anthony W. Armstrong."

Mr. Armstrong was survived by his widow, whose maiden name was Jessie R. Easten, of New York city, and two children—a son and a daughter; also by three sisters, Mrs. R. W. Falls, of Washington, D. C.; Mrs. Ada K. Shattuck, of Falls Church, Va., and Miss Lou Armstrong, of Alexandria.

The following minute appears among the records of one of the courts in which he practiced:

At a Corporation Court of the city of Alexandria, held at the courthouse of said city on Monday, January 13, 1902. Present, Hon. J. K. M. Norton, Judge.

The resolutions recently passed by the Bar Association of Alexandria in respect to the memory of the late Anthony W. Armstrong were read and the court ordered the same spread upon the minutes. Leonard Marbury and Francis L. Smith spoke upon the resolutions.

Resolutions on behalf of Anthony W. Armstrong:

Resolved, That we have received with deep sorrow the intelligence of the death of Anthony W. Armstrong, for many years a leading practitioner in the courts of this city, and that we regard this said event as a great loss to our profession and to our whole community.

Resolved, That fidelity to all, and a strict regard for the rights of others, marked in a conspicuous degree his walk among men, so that his life is an example to contemplate with pleasure and profit.

Resolved, That his personal excellence will abide in our hearts and will make the recollection of our intercourse with him, both social and professional, a memory upon which we shall ever delight to linger.

Resolved, That in the death of Mr. Armstrong, the community has lost an upright and public-spirited citizen; the Bar a conscientious, industrious and honorable member, whose sound

judgment and legal attainments adorned the practice of his chosen calling; his family a tender and devoted relative, and his friends, one who was always loyal and true. He was a man of uncommon worth; has left a good name, which is far better than riches, and we deplore the death of our friend and brother, and mourn with others who loved him.

Resolved, That these resolutions be communicated to his bereaved family, and be presented to the United States Circuit Court for the Eastern District of Virginia, and to the State courts in this city, and the counties of Alexandria and Fairfax, to be spread upon their minutes, as a testimonial of his character and attainments and our high regard and esteem for him.



R. R. KANE

JUDGE ROBERT RAY KANE.

Judge Robert Ray Kane was born at Gate City, Virginia (then Estillville), on the 25th day of October, 1867, and died at that place on January 4th, 1902, being in his thirty-fifth year at the time of his decease.

He graduated from the Virginia Military Institute in the class of 1888, and subsequently studied law at the University of Virginia under the late John B. Minor. He was admitted to the Bar December, 1891, and commenced the practice in January, 1892, having become associated with the late Judge H. S. K. Morison.

He was appointed a member of the Board of Visitors of the Virginia Military Institute, to fill out the unexpired term of Hon. William F. Rhea, and was again appointed a member of that body December 21, 1901, for a term of three years.

He was elected judge of the County Court of Scott county in 1901, and held this position at the time of his death.

Judge Kane was a man of many brilliant parts. Inheriting from his father, who was one of the most distinguished lawyers of Southwest Virginia, a natural aptitude for the profession, he ranked as one of the ablest lawyers of his county and section.

As a student at the Virginia Military Institute he gave early promise of a brilliant future. He graduated as one of the cadet captains, and ranked high in class standing. In many respects he was regarded as the most brilliant in a class that numbered many bright young men.

About six years ago he was united in marriage with Miss Josie Edmonds, of Gate City, and she and three children survive him.

He was called away too early to have made more than a commencement on the career he had mapped out for himself, but he left the impress of his strong personality upon all with

whom he came in contact. As a judge, he gave eminent satisfaction, both to the Bar and litigants. But it was in his home life that his splendid character displayed itself in all its fullness. He loved his home, his wife and children, and was always happiest when in their society.

In the flower of his young manhood God in His infinite wisdom has called him away, but during his brief sojourn on earth he impressed his character and rare ability upon all with whom he came in contact.

R. A. AYERS.

[REDACTED]

ROBERT C. STRIBLING

Died April 5, 1901

[REDACTED]

[The Editor regrets that he has been unable to secure a Memorial of Mr. Stribling in time for publication in this volume.]

Former Presidents

*WILLIAM J. ROBERTSON,
1888-'89.

*R. G. H. KEAN,
1889-'90.

*EDWARD C. BURKS.
1890-'91.

*J. RANDOLPH TUCKER,
1891-'92.

RO. T. BARTON,
1892-'93.

*WALLER R. STAPLES.
1893-'94.

CHARLES M. BLACKFORD,
1894-'95.

ROBERT M. HUGHES,
1895-'96.

*WILLIAM WIRT HENRY,
1896-'97.

WILLIAM B. PETTIT,
1897-'98.

JOHN GOODE,
1898-'99.

†WILLIAM J. LEAKE,
1899-1900.

WILLIAM A. ANDERSON,
1899-1900.

LUNS福德 L. LEWIS,
1900-1901.

THOMAS C. ELDER,
1901-1902.

* Deceased.

† Resigned on account of ill health.

Former Vice-Presidents

Anderson, William A.....	1899
Barton, Robert T.....	1890
Beach, S. Ferguson.....	1889
Berkeley, Landon C., Jr.....	1901
Buchanan, B. F.....	1898
Chapman, J. W.....	1900
Cochran, George M.....	1897
Conrad, Holmes.....	1888
Crocker, James F.....	1891
Duke, R. T. W., Jr.....	1897
Elder, Thomas C.....	1900
Figgat, J. H. H.....	1892
Fitzgerald, J. P.....	1891
Fulton, E. M.....	1894
Fulton, John H.....	1889
Glasgow, Frank T.....	1901
Gordon, A. C.....	1898
Graham, Samuel C.....	1890 and 1895
Graves, Charles A.....	1889
Gray, A. A.....	1891
Green, Berryman.....	1890
Hamilton, Alexander.....	1897
Harrison, James P.....	1893
Henry, R. R.....	1893
Homes, W. E.....	1898
Hundley, George J.....	1896
Hunton, Eppa.....	1890
Hunton, Eppa, Jr.....	1896
Jenkins, John B.....	1900
Kelly, Joseph L.....	1901
Lewis, John H.....	1898
Lile, William M.....	1899
Logan, Robert H.....	1897
Mann, William H.....	1892

McCormick, Marshall.....	1902
McIlwaine, William B.....	1902
McIntosh, George.....	1893
McKenney, William R.....	1889
Miller, H. R.....	1895
Moore, R. Walton.....	1893 and 1901
Old, William W.....	1897
Page, R. M.....	1892 and 1899
Parrish, Robert L.....	1895
Perkins, George.....	1895
Pettit, William B.....	1894
Pickrell, John.....	1898
Portlock, William N.....	1899
Ranson, Thomas D.....	1891
Riely, John W.....	1888
Robertson, William Gordon.....	1902
Routh, Henry A.....	1891
Segar, Arthur S.....	1890
Sipe, George E.....	1896
Smith, Lloyd T.....	1901
Southall, R. G.....	1894 and 1899
Stickley, E. E.....	1894
Tabb, Thomas.....	1888
Taliaferro, William B.....	1895
Thomas, R. S.....	1894 and 1896
Tunstall, Richard B.....	1889
Turnbull, Robert.....	1900
White, William H.....	1902
Williams, John G.....	1902

Former Members of the Executive Committee

Blackford, Charles M.....	1888
Bryan, John Stewart.....	1900
Caton, James R.....	1897
Christian, George L.....	1894

Coke, John A.....	1897
Davis, Richard B.....	1891 and 1901
Guy, Jackson.....	1896
Hamilton, Alexander.....	1888
Hanger, Marshall.....	1892
Harrison, George M.....	1889
Heath, James E.....	1888
Henly, R. L.....	1890
Hunton, Eppa, Jr.....	1898
Jones, Claggett B.....	1900
Leake, William J.....	1888, 1893 and 1895
Little, William A., Jr.....	1894
Martin, Thomas S.....	1889
Massie, Eugene C.....	1893
Meredith, Charles V.....	1890
Meredith, Wyndham R.....	1902
Morris, George W.....	1892
Munford, Beverley B.....	1899
McGuire, Frank H.....	1888 and 1891
McIntosh, George.....	1900
McIlwaine, William B.....	1896
McRae, W. P.....	1899
Patterson, A. W.....	1902
Ranson, Thomas D.....	1895
Robertson, Alexander F.....	1894
Thom, Alfred P.....	1902
Thomas, R. S.....	1898
Williams, John G.....	1895
Woods, Micajah.....	1889

Former Secretaries and Treasurers

*Lamb, James C.....	1888-1892
*Guy, Jackson.....	1892-1896
Massie, Eugene C.....	1896-1902

* Resigned.

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1902-1903

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(SOUTHWEST)

WILLIAM H. WHITE
(TIDEWATER)

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(PIEDMONT)

MARSHALL McCORMICK
(VALLEY)

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(SOUTHSIDE)

Secretary and Treasurer

EUGENE C. MASSIE

Executive Committee

A. W. PATTERSON, CHAIRMAN

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ALFRED P. THOM

(111)

Standing Committees

Admissions

(Names in Order of the Judicial Circuits.)

First Circuit	GEORGE A. FRICK.....	Norfolk.
Second Circuit	BARTLETT ROPER, JR.....	Petersburg.
Third Circuit	JAMES MANN.....	Blackstone.
Fourth Circuit	R. H. T. ADAMS, JR.....	Lynchburg.
Sixth Circuit	PAUL PETTIT	Palmyra.
Seventh Circuit	JAMES E. CANNON.....	Richmond.
Eighth Circuit	E. E. MONTAGUE.....	Hampton.
Ninth Circuit	J. W. FLEET.....	Biscoe.
Tenth Circuit	F. W. SIMS.....	Louisa.
Eleventh Circuit	GARDNER L. BOOTH.....	Alexandria.
Twelfth Circuit	E. E. STICKLEY.....	Woodstock.
Thirteenth Circuit	FITZHUGH ELDER	Staunton.
Fourteenth Circuit	HARVEY T. HALL.....	Roanoke.
Fifteenth Circuit	R. R. HENBY.....	Tazewell.
Sixteenth Circuit	D. D. HULL, JR.....	Bristol.
Seventeenth Circuit	GEORGE C. PEERY.....	Wise.
Eighteenth Circuit	J. LAWRENCE CAMPBELL.....	Bedford City.

Legislation and Law Reform

CHARLES T. LASSITER.....	Petersburg.
S. GORDON CUMMING	Hampton.
J. BOYD SEARS.....	Mathews.
R. G. SOUTHLAND.....	Amelia.
GEORGE E. SIPE.....	Harrisonburg.

Judiciary

J. D. HORSLEY.....	Lynchburg.
J. F. BULLITT.....	Big Stone Gap.
JOHN A. COKE.....	Richmond.
LOUIS T. HANCKEL.....	Charlottesville.
GEORGE G. GRATTAN.....	Harrisonburg.

Grievances

R. CARTER SCOTT.....	Richmond.
R. B. DAVIS.....	Petersburg.
JOHN B. JENKINS.....	Norfolk.
LUCIAN H. COCKE.....	Roanoke.
B. T. GUNTER, JR.....	Accomac.

Legal Education and Admission to the Bar

W. M. LILE.....	University.
M. P. BURKS.....	Lexington.
JOSEPH L. KELLY.....	Bristol.
GEORGE BRYAN.....	Richmond.
JOHN H. LEWIS.....	Lynchburg.

Library and Legal Literature

ROBERT M. HUGHES.....	Norfolk.
MARSHALL HANGER.....	Staunton.
CHARLES A. GRAVES.....	University.
JOHN H. FULTON.....	Wytheville.
R. L. PARRISH.....	Covington.

International Arbitration

H. ST. GEORGE TUCKER.....	Lexington.
ELBERT M. FULTON.....	Wise.
JAMES P. HARRISON.....	Danville.
W. M. ATKINSON.....	Winchester.
J. K. M. NORTON.....	Alexandria.
J. T. McALLISTER.....	Hot Springs.
SAMUEL GRIFFIN.....	Bedford City.
WILLIAM A. JONES.....	Warsaw.
GEORGE S. SHACKELFORD.....	Orange.

Presentments

First Circuit.....	CONWAY W. SAMS.....	Norfolk.
Second Circuit	GEORGE MASON	Petersburg.
Third Circuit	E. CHAMBERS GOODE.....	Boydtown.

Fourth Circuit	RANDOLPH HARRISON.....	Lynchburg.
Sixth Circuit.....	GEORGE PERKINS.....	Charlottesville.
Seventh Circuit	EDWIN P. COX.....	Richmond.
Eighth Circuit	C. W. ROBINSON.....	Newport News.
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Tenth Circuit	W. D. CARDWELL.....	Hanover.
Eleventh Circuit	JAMES R. CATON.....	Alexandria.
Twelfth Circuit	W. ROY STEPHENSON.....	Winchester.
Thirteenth Circuit	E. M. PENDLETON.....	Lexington.
Fourteenth Circuit	JOHN R. JOHNSON.....	Christiansburg.
Fifteenth Circuit	E. L. GREEVER.....	Tazewell.
Sixteenth Circuit	R. M. PAGE.....	Abingdon.
Seventeenth Circuit	PATRICK HAGAN	Clinch.
Eighteenth Circuit	ROY B. SMITH.....	Roanoke.

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THOMAS C. ELDER.....	Staunton.
R. L. PARRISH.....	Covington.
FRANK W. CHRISTIAN.....	Richmond.
W. M. LILE.....	University of Virginia.

Roll of Members

1902

Alphabetical List

ACTIVE

ADAMS, R. H. T., JR.	Lynchburg.
ANDERSON, GEORGE K.	Clifton Forge.
ANDERSON, H. W.	Richmond.
ANDERSON, JAMES LEWIS.	Richmond.
ANDERSON, SAMUEL A.	Richmond.
ANDERSON, WILLIAM A.	Lexington.
ASHBY, C. AYLETT.	Newport News.
ATKINSON, HENRY A.	Richmond.
ATKINSON, WILLIAM M.	Winchester.
AYERS, RUFUS A.	Big Stone Gap.
BAKER, JAMES C.	Newport News.
BAKER, RICHARD H.	Norfolk.
BARBOUR, JOHN S.	Culpeper.
BARBOUR, PHILIP P.	Gordonsville.
BARHAM, T. J.	Newport News.
BARLEY, LOUIS C.	Alexandria.
BARRETT, W. E.	Newport News.
BARTON, ROBERT T.	Winchester.
BATCHELOR, O. D.	Newport News.
BERKELEY, LANDON C., JR.	Danville.
BIBB, W. E.	Louisa.
BICKFORD, R. G.	Newport News.
BLACKFORD, CHARLES M.	Lynchburg.
BLACKFORD, R. COLSTON.	Lynchburg.
BLAIR, JOHN C.	Wytheville.
BLAIR, R. W.	Wytheville.
BLAKELY, THOMAS E.	Tappahannock.
BOND, W. H.	Wise.
BOOTHE, GARDNER L.	Alexandria.
BOULDIN, WOOD, JR.	Houston.
BOWE, STUART	Richmond.
BOYCE, U. LAWRENCE, JR.	Berryville.
BOYKIN, R. E.	Smithfield.
BRAXTON, A. C.	Staunton.
BRAXTON, E. M.	Newport News.
BROUN, CHARLES M.	Berryville.
BROWN, CALLOWAY	Bedford City.

BROWN, J. D. G.	Newport News.
BROWN, WALLACE F.	Richmond.
BROWNING, G. L.	.Madison.
BROWNING, JAMES S.	Pocahontas.
BRYAN, GEORGE	Richmond.
BEYAN, JOHN STEWART.	Richmond.
BRYANT, JULIAN	Richmond.
BUCHANAN, B. F.	.Marion.
BUFORD, EDWARD P.	Lawrenceville.
BULLITT, J. F.	Big Stone Gap.
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BURROUGHS, A. H.	Lynchburg.
BURROUGHS, JOHN J.	Norfolk.
BURROW, ALAN G.	Norfolk.
BURNS, WILLIAM E.	Lebanon.
BYRD, H. H.	Warm Springs.
BYRD, RICHARD E.	Winchester.
CABELL, J. ALSTON.	Richmond.
CAMPBELL, A. A.	Wytheville.
CAMPBELL, J. LAWRENCE	Bedford City.
CAMPBELL, PRESTON W.	Abingdon.
CANNON, JAMES E.	Richmond.
CARDWELL, C. P.	Richmond.
CARDWELL, W. D.	Richmond.
CARLIN, CHARLES C.	Alexandria.
CARSON, J. PRESTON.	Richmond.
CARTER, HILL	Ashland.
CARTER, JOHN W.	Martinsville.
CARTER, THOMAS N.	Richmond.
CARY, C. E.	Gloucester.
CARY, HUNDSON	Richmond.
CASKIE, G. E.	Lovingston.
CASKIE, JAMES	Richmond.
CATON, JAMES R.	Alexandria.
CAUSEY, F. F.	Hampton.
CHANCELLOR, S. CARROLL.	Leesburg.
CHAPMAN, J. W.	Tazewell.
CHRISTIAN, FRANK W.	Richmond.
CHRISTIAN, GEORGE L.	Richmond.
CHRISTIAN, THOMAS D.	Lynchburg.
CLAYTOR, GRAHAM	Bedford City.
CLOPTON, WILLIAM I.	Manchester.
COALTER, H. ST. JOHN.	Richmond.
COCHRAN, JOHN B.	Staunton.
COCKE, LUCIAN H.	Roanoke.
COCKE, PRESTON	Richmond.

COKE, JOHN A.	Richmond.
COKE, JOHN A., JR.	Richmond.
COLE, J. E.	Norfolk.
COLEMAN, C. W.	Portsmouth.
COLEMAN, J. T.	Lynchburg.
COLLINS, ALLEN G.	Richmond.
CONRAD, HOLMES	Winchester.
CORBITT, JAMES H.	Suffolk.
COX, EDWIN P.	Richmond.
CROCKER, FRANK L.	Portsmouth.
CRUMP, BEV. T.	Richmond.
CUMMING, S. GORDON	Hampton.
CURRY, CHARLES	Staunton.
DANIEL, JAMES R. V.	Richmond.
DANIEL, JOHN W.	Lynchburg.
DAVIS, CHARLES HALL	Petersburg.
DAVIS, HUGH C.	Norfolk.
DAVIS, RICHARD B.	Petersburg.
DAWSON, LUTHER	Richmond.
DELANEY, JOHN T.	Covington.
DEW, JOHN G.	Newtown.
DOOLEY, JAMES H.	Richmond.
DOSWELL, STONEWALL J.	Richmond.
DOYLE, R. D.	Marion.
DOWNING, H. H.	Front Royal.
DREW, LESLIE H.	Richmond.
DUKE, R. T. W., JR.	Charlottesville.
ECHOLS, EDWARD	Staunton.
EDMUND, JAMES E.	Lynchburg.
EDWARDS, THOMAS H.	West Point.
EGGLESTON, D. Q.	Smithville.
ELDER, THOMAS C.	Staunton.
ELDER, FITZHUGH	Staunton.
ELLIOTT, GEORGE B.	Richmond.
EUBANK, WILLIAM	Bedford City.
EWELL, JOHN C.	Millenbeck.
FARRAR, S. L.	Amelia.
FISHBURNE, JOHN W.	Charlottesville.
FLEET, J. W.	Biscoe.
FLETCHER, JAMES H., JR.	Accomac.
FLOOD, H. D.	Appomattox.
FOULK, W. L.	Smithfield.
FORD, C. VERNON	Fairfax.
FRICK, GEORGE A.	Norfolk.
FULKERSON, SAMUEL VANCE	Bristol.

FULTON, E. M.	Wise.
FULTON, JOHN H.	Wytheville.
GAINES, GRENVILLE	Warrenton.
GARRETT, H. L.	Covington.
GARNETT, THEODORE S.	Norfolk.
GARNETT, THEODORE S., JR.	Norfolk.
GIBSON, ALEXANDER STUART	Richmond.
GILLESPIE, A. P.	Tazewell.
GILLISPIE, BARNER	Tazewell.
GILMER, FRANK	Charlottesville.
GLASGOW, FRANK T.	Lexington.
GLASGOW, WILLIAM A., JR.	Roanoke.
GLENN, HULST	Staunton.
GOOD, D. SAYLOR	Roanoke.
GOODE, E. CHAMBERS	Boydtown.
GOODE, JAMES U.	Norfolk.
GOODE, JOHN	Bedford City.
GOODMAN, LEON	Lynchburg.
GORDON, AMISTEAD C.	Staunton.
GORDON, JAMES W.	Richmond.
GORDON, THOMAS C.	Richmond.
GRAHAM, SAMUEL C.	Tazewell.
GRATTAN, GEORGE G.	Harrisonburg.
GRAVLY, W. H.	Martinsville.
GRAVES, CHARLES A.	University of Virginia.
GRAY, A. A.	Palmyra.
GRAY, GEORGE D.	Culpeper.
GREGORY, ROGER	Richmond.
GREEVER, EDGAR LEE	Tazewell.
GRIFFIN, SAMUEL	Bedford City.
GRIMSLY, THOMAS EDWIN	Culpeper.
GRINNAN, DANIEL	Richmond.
GRONER, D. LAWRENCE	Norfolk.
GUIGON, A. B.	Richmond.
GUNTER, BENJAMIN T., JR.	Accomac.
GUY, JACKSON	Richmond.
GUYEE, C. B.	Lexington.
HAAS, TALFOURD N.	Harrisonburg.
HAGAN, PATRICK	Clinch.
HALL, HARVEY T.	Roanoke.
HAMILTON, ALEXANDER	Petersburg.
HAMILTON, ALEXANDER DONNAN	Petersburg.
HAMLIN, THOMAS	Danville.
HANGER, MARSHALL	Staunton.
HANCKEL, LOUIS T.	Charlottesville.

HANCKEL, LOUIS T., JR.	Charlottesville.
HARNSBERGER, J. S.	Harrisonburg.
HANSBROUGH, LIVINGSTON C.	Salem.
HARLESS, ALLEN I.	Christiansburg.
HARPER, FRED.	Lynchburg.
HARRIS, JOHN T., JR.	Harrisonburg.
HARRISON, JAMES P.	Danville.
HARRISON, RANDOLPH	Lynchburg.
HATTON, G.	Portsmouth.
HAY, JAMES	Madison.
HEATH, JAMES E.	Norfolk.
HEATH, JAMES E., JR.	Norfolk.
HENLEY, NORVELLE L.	Williamsburg.
HENRY, J. RANDOLPH	Lynchburg.
HENRY, R. R.	Tazewell.
HENSON, WALLER J.	Pearisburg.
HERRING, CHARLES G.	Harrisonburg.
HICKS, R. RANDOLPH	Norfolk.
HIGGINBOTHAM, ALBERT SYDNEY	Tazewell.
HOLLADAY, A. L.	Richmond.
HOLLAND, E. E.	Suffolk.
HOLLAND, W. S.	Windsor.
HOPKINS, W. S.	Lexington.
HORSLEY, JOHN D.	Lynchburg.
HOWARD, D. H.	Lynchburg.
HOWARD, JOHN, JR.	Richmond.
HUBARD, J. L.	Norfolk.
HUGHES, ROBERT M.	Norfolk.
HULL, D. D., JR.	Bristol.
HUMPHREYS, HENRY O.	Bedford City.
HUNTER, JOHN, JR.	Richmond.
HUNTON, EPPA	Warrenton.
HUNTON, EPPA, JR.	Warrenton.
HUTTON, F. B.	Abingdon.
HYATT, LAWRENCE T.	Jonesville.
INGRAM, JOHN H.	Manchester.
IRVINE, R. T.	Big Stone Gap.
IVY, HENRY CLAY	Newport News.
JACKSON, E. H.	Front Royal.
JACKSON, E. HILTON	Washington, D. C.
JACKSON, G. CARLTON	Richmond.
JAMES, ROBERT G.	Clifton Forge.
JEFFRIES, J. L.	Culpeper.
JENKINS, JOHN B.	Norfolk.
JOHNSON, JOHN R.	Christiansburg.

JOHNSON, JOHN M.	Alexandria.
JONES, CLAGGETT B.	Bruington.
JONES, WILLIAM A.	Warsaw.
KEGLEY, FULTON	Bland.
KEITH, J. A. C.	Warrenton.
KELLY, JOSEPH L.	Bristol.
KEMP, SMELTZER V.	Bedford City.
KERN, HARRY R.	Winchester.
KILBY, WILBUR J.	Suffolk.
KING, A. E.	Roanoke.
LACY, R. T.	Richmond.
LAMB, JOHN A.	Richmond.
LANDES, W. H.	Staunton.
LASSITER, CHARLES TROTTER	Petersburg.
LASSITER, FRANCIS RIVES	Petersburg.
LAWLESS, J. T.	Norfolk.
LEAKE, DAVID H.	Licking.
LEAKE, J. JORDAN	Richmond.
LEAKE, W. J.	Richmond.
LETCHER, GREENLEE D.	Lexington.
LEWIS, JOHN H.	Lynchburg.
LEWIS, L. L.	Richmond.
LIGGETT, WINFIELD	Harrisonburg.
LILE, WILLIAM M.	University of Virginia.
LONG, A. R.	Lynchburg.
LONG, E. M.	Richmond.
LOYALL, W. H. T.	Norfolk.
LYLE, EDWARD	Roanoke.
MANN, BERNARD	Petersburg.
MANN, JAMES	Nottoway.
MANN, RICHARD H.	Petersburg.
MANN, WILLIAM HODGES	Nottoway.
MANSON, NATHANIEL C., JR.	Lynchburg.
MARSHALL, R. C.	Portsmouth.
MARTIN, M. M.	Richmond.
MARTIN, THOMAS S.	Scottsville.
MASON, GEORGE	Petersburg.
MASSIE, EUGENE C.	Richmond.
MAURY, MATTHEW F.	Richmond.
MAY, S. D.	Tazewell.
MCALLISTER, J. T.	Hot Springs.
MCALLISTER, W. M.	Warm Springs.
McCABE, J. B.	Leesburg.
McCORMICK, MARSHALL	Berryville.
McCUE, J. SAMUEL	Charlottesville.
McDANNALD, A. H.	Warm Springs.

McGUIRE, MURRAY M.	Richmond.
MCILWAINE, WILLIAM B.	Petersburg.
MCINTOSH, GEORGE	Norfolk.
MCINTYRE, R. A.	Warrenton.
MCKENNEY, WILLIAM R.	Petersburg.
MCLEMORE, JAMES L.	Suffolk.
McMULLAN, CHARLES F.	Madison.
MEARS, OTHO F.	Eastville.
MEREDITH, CHARLES V.	Richmond.
MEREDITH, WYNDHAM R.	Richmond.
MILLER, HUGH GORDON	Norfolk.
MINOR, JOHN B., JR.	Richmond.
MINOR, RALEIGH C.	University of Virginia.
MITCHELL, KIRKWOOD	Richmond.
MITCHELL, ROLAND GREENE	Brownsville.
MONCURE, WILLIAM A.	Richmond.
MONTAGUE, A. J.	Richmond.
MONTAGUE, E. E.	Hampton.
MONTAGUE, HILL	Richmond.
MOON, JOHN B.	Charlottesville.
MOORE, C. F.	Covington.
MOORE, R. WALTON	Fairfax.
MOORE, THOMAS LEE	Christiansburg.
MORRIS, GEORGE W.	Charlottesville.
MORTON, JAMES W.	Orange.
MUNFORD, B. B.	Richmond.
MULLEN, JAMES	Richmond.
MURRELL, WILLIAM M.	Lynchburg.
NELMS, W. J.	Newport News.
NELSON, FRANK	Rustburg.
NEWBILL, FRANK G.	Irvington.
NEWMAN, E. D.	Woodstock.
NICHOLS, EDWARD	Leesburg.
NORTON, J. K. M.	Alexandria.
O'FERRALL, CHARLES T.	Richmond.
O'FLAHEETY, D. C.	Front Royal.
OLD, WILLIAM W.	Norfolk.
OSBORNE, K. MEADE	Norfolk.
PAGE, LEGH R., JR.	Richmond.
PAGE, ROSEWELL	Richmond.
PAGE, R. M.	Abingdon.
PAGE, THOMAS N.	Washington.
PARKER, J. C.	Franklin.
PARRISH, R. L.	Covington.
PATRICK, WILLIAM	Staunton.

PATTESON, S. S. P.	Richmond.
PATTERSON, A. W.	Richmond.
PEACHY, B. D.	Williamsburg.
PEERY, GEORGE CAMPBELL	Wise.
PENDLETON, E. M.	Lexington.
PENICK, PAUL M.	Lexington.
PERKINS, EVERETT	Roanoke.
PERKINS, GEORGE	Charlottesville.
PETERS, H. G.	Bristol.
PETTIT, PAUL	Palmyra.
PETTIT, WILLIAM B.	Palmyra.
PHILLIPS, LOUIS C.	Newport News.
PICKRELL, JOHN	Richmond.
PIERCE, WILLIAM M.	Christiansburg.
PILCHER, EDWIN M.	Richmond.
POLLARD, H. R.	Richmond.
POLLARD, JOHN GARLAND	Richmond.
PORTLOCK, WILLIAM N.	Norfolk.
POWELL, STEWART K.	Onancock.
QUARLES, J. M.	Staunton.
RANSON, JOHN BALDWIN	Staunton.
RANSON, THOMAS D.	Staunton.
REGESTER, SAMUEL	Richmond.
REVERCOMB, GEORGE A.	Covington.
RICHARDSON, D. C.	Richmond.
RICHARDS, W. B.	Front Royal.
RIELY, HENRY C.	Richmond.
RIVES, ROBERT S.	Richmond.
RIXKEY, C. J., JR.	Culpeper.
RIXKEY, JOHN F.	Culpeper.
ROBERTSON, ALEXANDER F.	Staunton.
ROBERTSON, EDWARD W.	Roanoke.
ROBERTSON, THOMAS B.	Eastville.
ROBERTSON, WILLIAM GORDON	Roanoke.
ROBINSON, CLARENCE W.	Newport News.
ROPER, BARTLETT, JR.	Petersburg.
ROSS, W. A.	Norfolk.
ROYALL, WILLIAM L.	Richmond.
RUMBLE, H. H.	Norfolk.
RUTHERFOORD, JOHN	Richmond.
SACKETT, H. M.	Lynchburg.
SAMS, CONWAY WHITTLE	Norfolk.
SANDS, ALEX. H.	Richmond.
SCOTT, CHARLES LANDON	Amherst.
SCOTT, R. CARTER	Richmond.
SCOTT, ROBERT E.	Roanoke.

SEARS, J. BOYD.....	Mathews.
SEBRELL, JOHN N., JR.....	Norfolk.
SELDNER, A. B.....	Norfolk.
SHACKELFORD, GEORGE S.....	Orange.
SHEFFEY, JAMES WHITE.....	Marion.
SHELTON, JAMES L.....	Richmond.
SHELTON, THOMAS W.....	Norfolk.
SHIELDS, W. T.....	Lexington.
SHULTICE, R. W.....	Norfolk.
SIMS, F. W.....	Louisa.
SINCLAIR, A. W.....	Manassas.
SINCLAIR, G. B.....	Charlottesville.
Sipe, George E.....	Harrisonburg.
SKELTON, W. O.....	Richmond.
SLEMP, C. B.....	Big Stone Gap.
SMITH, DOUGLAS H.....	Tazewell.
SMITH, H. M., JR.....	Richmond.
SMITH, LLOYD T.....	Heathsville.
SMITH, BLACKBURNE.....	Berryville.
SMITH, ROY B.....	Roanoke.
SMITH, WILLIS B.....	Petersburg.
SOUTHALL, R. G.....	Amelia.
STAPLES, A. P.....	Roanoke.
STARKE, L. D., JR.....	Norfolk.
ST. CLAIRE, GEORGE WALKER.....	Tazewell.
STEPHENSON, JOHN W.....	Warm Springs.
STEPHENSON, P. S.....	Norfolk.
STEPHENSON, W. ROY.....	Winchester.
STERN, JO LANE.....	Richmond.
STICKLEY, E. E.....	Woodstock.
STORY, E. FRANK.....	Franklin.
STEINGFELLOW, CHARLES S.....	Richmond.
STRODE, AUBREY E.....	Lynchburg.
STUART, J. J.....	Abingdon.
SWANSON, CLAUDE A.....	Chatham.
TABB, THOMAS.....	Hampton.
TALLEY, ROBERT H.....	Richmond.
TAYLOR, EUGENE B.....	Alexandria.
TAYLOR, HENRY, JR.....	Richmond.
TAYLOR, TAZEWELL.....	Norfolk.
TAYLOR, W. H.....	Norfolk.
TENNANT, W. B.....	Richmond.
THOM, A. P.....	Norfolk.
THOMAS, JULIUS WAVERLEY.....	Smithfield.
THOMAS, R. S.....	Smithfield.
THOMASON, E. B.....	Richmond.

THORP, R. T.	Norfolk.
THORNTON, J. B. T.	Manassas.
TILTON, JOHN G.	Norfolk.
TOWNES, W. A.	Richmond.
TUCKER, H. ST. GEORGE	Lexington.
TUNSTALL, RICHARD B.	Norfolk.
TURK, R. S.	Staunton.
TURNBULL, R.	Lawrenceville.
TURNER, E. S.	Warrenton.
VANCE, W. R.	Lexington.
VICARS, O. M.	Wise.
WALKER, GEORGE E.	Charlottesville.
WARD, R. M.	Winchester.
WARNER, A. E.	Portsmouth.
WATKINS, R. W.	Houston.
WATTS, J. ALLEN	Roanoke.
WATTS, LEGH R.	Portsmouth.
WAYT, HAMPTON H.	Staunton.
WELLFORD, B. R.	Richmond.
WELFLY, M. L.	Washington, D. C.
WENDENBURG, L. O.	Richmond.
WESCOTT, N. B.	Mappsburg.
WEST, J. F.	Waverley.
WELLS, ERNEST H.	Manchester.
WHITE, C. M.	Warrenton.
WHITE, JOHN M.	Charlottesville.
WHITE, WILLIAM H.	Norfolk.
WICKHAM, T. ASHBY	Richmond.
WILLARD, JOSEPH E.	Fairfax C. H.
WILLIAMS, CHARLES U.	Richmond.
WILLIAMS, CHARLES U., JR.	Richmond.
WILLIAMS, EDMUND RANDOLPH	Richmond.
WILLIAMS, JOHN G.	Orange.
WILLIAMS, THOMAS N.	Clarksville
WILLIAMS, WILLIAM LEIGH	Norfolk.
WILLIAMSON, DAVID A.	Covington.
WILSON, WILLIAM V., JR.	Lynchburg.
WINBORNE, R. W.	Buena Vista.
WISE, GEORGE D.	Richmond.
WISE, GEORGE NELMS	Newport News.
WOOD, R. H.	Charlottesville.
WOODS, MICAJAH	Charlottesville.
WOODS, SAMUEL B.	Charlottesville.
WOODWARD, W. W.	Newport News.
YARRELL, LEONIDAS D.	Emporia.
Total active members.	445.

Roll of Members

HONORARY

AIKEN, A. M.,	Judge Corporation Court,	Danville, Va.
BLACKSTONE, J. W. G.,	Judge Eighth Circuit,	Accomac, Va.
BLAIR, H. E.,	Judge Fourteenth Circuit,	Salem, Va.
BOYD, JAMES E.,	Judge United States Circuit Court,	Greensboro, N. C.
BRAWLEY, WM. H.,	Judge United States District Court,	Charleston, S. C.
BUCHANAN, JOHN A.,	Judge Supreme Court of Appeals,	Abingdon, Va.
CARDWELL, R. H.,	Judge Supreme Court of Appeals,	Hanover, Va.
CHRISTIAN, F. P.,	Judge Hustings Court,	Lynchburg, Va.
CROCKER, JAMES F.,	Judge Corporation Court,	Portsmouth, Va.
FULLER, M. W.,	Chief Justice Supreme Court U. S.,	Washington, D. C.
GOFF, NATHAN,	Judge U. S. Circuit Court,	Clarksburg, W. Va.
GRIMSLY, D. A.,	Judge Sixth Circuit,	Culpeper, Va.
HANCKEL, ALLEN R.,	Judge Corporation Court,	Norfolk, Va.
HANCOCK, B. A.,	Judge Second Circuit,	Manchester, Va.
HARRISON, GEO. M.,	Judge Supreme Court of Appeals,	Staunton, Va.
HARRISON, T. W.,	Judge Twelfth Circuit,	Winchester, Va.
HOLT, HENRY W.,	Judge Corporation Court,	Staunton, Va.
HUNDLEY, GEORGE J.,	Judge Third Circuit,	Farmville, Va.
JACKSON, J. J.,	Judge United States District Court,	Parkersb'g, W. Va.
JACKSON, R. C.,	Judge Fifteenth Circuit,	Wytheville, Va.
KEITH, JAMES,	President Supreme Court of Appeals,	Richmond, Va.
LAMB, JAMES C.,	Judge Chancery Court,	Richmond, Va.
LETCHER, S. H.,	Judge Thirteenth Circuit,	Lexington, Va.
MARTIN, WILLIAM B.,	Judge Law and Chancery,	Norfolk, Va.
MASON, J. E.,	Judge Tenth Circuit,	Comorn, Va.
McDOWELL, H. C., Jr.,	Judge U. S. District Court—Western,	Big Stone Gap, Va.
MILLER, W. T.,	Judge Seventeenth Circuit,	Wise, Va.
MINOR, E. C.,	Judge Law and Equity,	Richmond, Va.
MORRIS, THOMAS J.,	Judge United States District Court,	Baltimore, Md.
MULLEN, J. M.,	Judge Corporation Court,	Petersburg, Va.
NICOL, C. E.,	Judge Eleventh Circuit,	Manassas, Va.
PRENTIS, R. R.,	Judge First Circuit,	Suffolk, Va.
PURNELL, THOMAS R.,	Judge United States District Court,	Raleigh, N. C.
SAUNDERS, E. W.,	Judge Fourth Circuit,	Rocky Mount, Va.
SHEFFEY, JOHN P.,	Judge Sixteenth Circuit,	Marion, Va.

(125)

SIMONTON, CHAS. H.,	Judge United States Circuit Court,	Charleston, S. C.
STUART, W. S.,	Judge Corporation Court,	Bristol, Va.
TUCKER, J. RANDOLPH,	Judge Eighteenth Circuit,	Bedford City, Va.
WADDILL, EDM'D, Jr.,	Judge U. S. District Court—Eastern,	Richmond, Va.
WELLFORD, B. R., Jr.,	Judge Seventh Circuit,	Richmond, Va.
WHITTLE, S. G.,	Judge Supreme Court of Appeals,	Martinsville, Va.
WITT, SAMUEL B.,	Judge Hustings Court,	Richmond, Va
WOODS, JOHN W.,	Judge Hustings Court,	Roanoke, Va.
WRIGHT, T. R. B.,	Judge Ninth Circuit,	Tappahannock, Va.

Total Members—Active	445
Honorary	44
	489

Roll of Active Members

1902

List by Localities

ACCOMAC.

FLETCHER, JAMES H., JR.....	Accomac.
GUNTER, BENJAMIN T., JR.....	Accomac.
POWELL, STEWART K.....	Onancock.
WESCOTT, N. B.....	Mappsburg.

ALBEMARLE.

GRAVES, CHARLES A.....	University of Virginia.
LILE, WILLIAM M.....	University of Virginia.
MARTIN, THOMAS S.....	Scottsville.
MINOR, RALEIGH C.....	University of Virginia.

ALLEGHANY.

ANDERSON, GEORGE K.....	Clifton Forge.
DELANEY, JOHN T.....	Covington.
GARRETT, H. L.....	Covington.
JAMES, ROBERT G.....	Clifton Forge.
MOORE, C. F.....	Covington.
PARRISH, R. L.....	Covington.
REVERCOMB, GEORGE A.....	Covington.
WILLIAMSON, DAVID A.....	Covington.

AMELIA.

FARRAB, S. L.....	Amelia.
SOUTHALL, R. G.....	Amelia.

AMHERST.

SCOTT, CHARLES L.....	Amherst.
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APPOMATTOX.

FLOOD, H. D.....Appomattox.

BATH.

BYRD, H. H.....	Warm Springs.
MCALEISTER, J. T.....	Hot Springs.
MCALEISTER, W. M.....	Warm Springs.
MCDANNALD, A. H.....	Warm Springs.
STEPHENSON, JOHN W.....	Warm Springs.

BEDFORD.

BROWN, CALLOWAY	Bedford City.
CAMPBELL, J. LAWRENCE.....	Bedford City.
CLAYTOR, GRAHAM	Bedford City.
EUBANK, WILLIAM	Bedford City.
GOODE, JOHN	Bedford City.
GRIFFIN, SAMUEL	Bedford City.
HUMPHREYS, HENRY O.....	Bedford City.
KEMP, SMELTZER V.....	Bedford City.

BLAND.

KEGLEY, FULTONBland.

BRUNSWICK.

BUFORD, EDWARD P.....	Lawrenceville.
TURNBULL, R.....	Lawrenceville.

CAMPBELL.

NELSON, FRANK.....Rustburg.

CHARLOTTE.

EGGLESTON, D. Q.....Smithville.

CHESTERFIELD.

CLOPTON, WILLIAM I.....	Manchester.
INGRAM, JOHN H.....	Manchester.
EIVES, ROBERT S.....	Manchester.
WELLS, ERNEST H.....	Manchester.

CLARKE.

BOYCE, U. LAWRENCE, JR.....	Berryville.
BROUN, CHARLES M.....	Berryville.
MCCORMICK, MARSHALL	Berryville.
SMITH, BLACKBURNE.....	Berryville.

CULPEPER.

BARBOUR, JOHN S.....	Culpeper.
GRAY, GEORGE D.....	Culpeper.
GRIMSLY, THOMAS EDWIN.....	Culpeper.
JEFFRIES, J. L.....	Culpeper.
RIXEY, C. J., JR.....	Culpeper.
RIXEY, JOHN F.....	Culpeper.

ELIZABETH CITY.

CAUSEY, F. F.....	Hampton.
CUMMING, S. GORDON.....	Hampton.
MONTAGUE, E. E.....	Hampton.
TABB, THOMAS.....	Hampton.

ESSEX.

BLAKEY, THOMAS E.....	Tappahannock.
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FAIRFAX.

FORD, C. VERNON.....	Fairfax.
MOORE, R. WALTON.....	Fairfax.
WILLARD, JOSEPH E.....	Fairfax.

FAUQUIER.

GAINES, GRENVILLE	Warrenton.
HUNTON, EPPA	Warrenton.
HUNTON, EPPA, JR.....	Warrenton.
KEITH, J. A. C.....	Warrenton.
MCINTYRE, R. A.....	Warrenton.
TURNER, E. S.....	Warrenton.
WHITE, C. M.....	Warrenton.

FLUVANNA.

GRAY, A. A.....	Palmyra.
PETTIT, PAUL	Palmyra.
PETTIT, WILLIAM B.....	Palmyra.

GILES.

HENSON, WALLER J.....	Pearisburg.
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GOOCHLAND.

LEAKE, DAVID H.....	Licking.
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GLOUCESTER.

CARY, C. E.....Gloucester.

GREENVILLE.

YARRELL, LEONIDAS D.....Emporia.

HALIFAX.

BOULDIN, WOOD, JR.....Houston.
WATKINS, R. W.....Houston.

HANOVER.

CARTER, HILLAshland.
CARDWELL, C. P.....Hanover.
CARDWELL, W. D.....Hanover.

HENRY.

CARTER, JOHN W.....Martinsville.
GRAVELY, W. H.....Martinsville.

ISLE OF WIGHT.

BOYKIN, R. E.....Smithfield.
FOLK, W. L.....Smithfield.
HOLLAND, W. S.....Windsor.
THOMAS, JULIUS WAVERLEY.....Smithfield.
THOMAS, R. S.....Smithfield.

JAMES CITY.

HENLEY, NORVELLE L.....Williamsburg.
PEACHY, B. D.....Williamsburg.

KING AND QUEEN.

DEW, JOHN G.....Newtown.
FLEET, J. W.....Biscoe.
JONES, CLAGGETT B.....Bruington.

KING WILLIAM.

EDWARDS, THOMAS H.....West Point

LANCASTER.

EWELL, JOHN C.....Millenbeck.
NEWBILL, FRANK G.....Irvington.

LEE.

HYATT, L. T..... Jonesville.

LOUDOUN.

CHANCELLOR, S. CARROLL..... Leesburg.
 McCABE, J. B..... Leesburg.
 NICHOLS, EDWARD..... Leesburg.

LOUISA.

BIBB, W. E..... Louisa.
 SIMS, F. W..... Louisa.

MADISON.

BROWNING, G. L..... Madison.
 HAY, JAMES Madison.
 McMULLAN, CHARLES F..... Madison.

MATHEWS.

SEARS, J. BOYD..... Mathews.

MECKLENBURG.

GOODE, E. CHAMBERS..... Boydton.
 WILLIAMS, THOMAS N..... Clarksville.

MONTGOMERY.

HARLESS, ALLEN I..... Christiansburg.
 JOHNSON, JOHN R..... Christiansburg.
 MOORE, THOMAS LEE..... Christiansburg.
 PIERCE, WILLIAM M..... Christiansburg.

NANSEMOND.

CORBITT, JAMES H..... Suffolk.
 HOLLAND, E. E..... Suffolk.
 KILBY, WILBUR J..... Suffolk.
 MCLEMORE, JAMES L..... Suffolk.

NELSON.

CASKIE, G. E..... Lovington.

NORTHAMPTON.

MEARS, OTHO F..... Eastville.
 ROBERTSON, THOMAS B..... Eastville.

NORTHUMBERLAND.

SMITH, LLOYD T.....Heathsville.

NOTTOWAY.

MANN, JAMES.....Nottoway.
MANN, WILLIAM HODGES.....Nottoway.

ORANGE.

BARBOUR, PHILIP P.....Gordonsville.
MORTON, JAMES W.....Orange.
SHACKELFORD, GEORGE S.....Orange.
WILLIAMS, JOHN G.....Orange.

PITTSYLVANIA.

SWANSON, CLAUDE A.....Chatham.

PRINCE WILLIAM.

SINCLAIR, A. W.....Manassas.
THORNTON, J. B. T.....Manassas.

RICHMOND COUNTY.

JONES, WILLIAM A.....Warsaw.

ROANOKE COUNTY.

HANSBROUGH, LIVINGSTON C.....Salem.

ROCKBRIDGE.

ANDERSON, WILLIAM A.....Lexington.
BURKS, M. P.....Lexington.
GLASGOW, FRANK T.....Lexington.
GUYER, C. B.....Lexington.
HOPKINS, W. S.....Lexington.
LETCHER, GREENLEE D.....Lexington.
MITCHELL, ROLAND GREENE.....Brownsburg.
PENDLETON, E. M.....Lexington.
PENICK, PAUL M.....Lexington.
SHIELDS, W. T.....Lexington.
TUCKER, H. ST. GEORGE.....Lexington.
VANCE, W. R.....Lexington.
WINBORNE, R. W.....Buena Vista.

ROCKINGHAM.

GRATTAN, GEORGE G.....	Harrisonburg.
HAAS, TALFOURD N.....	Harrisonburg.
HARNSBERGER, J. S.....	Harrisonburg.
HARRIS, JOHN T., JR.....	Harrisonburg.
HERRING, CHARLES G.....	Harrisonburg.
LIGGETT, WINFIELD	Harrisonburg.
SIPE, GEORGE E.....	Harrisonburg.

RUSSELL.

BURNS, WILLIAM E.....	Lebanon.
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SCOTT.

HAGAN, PATRICK	Clinch.
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SHENANDOAH.

NEWMAN, E. D.....	Woodstock.
STICKLEY, E. E.....	Woodstock.

SMYTH.

BUCHANAN, B. F.....	Marion.
DOYLE, R. D.....	Marion.
SHEFFY, JAMES WHITE.....	Marion.

SOUTHAMPTON.

PARKER, J. C.....	Franklin.
STORY, E. FRANK.....	Franklin.

SUSSEX.

WEST, J. F.....	Waverley.
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TAZEWELL.

BROWNING, JAMES S.....	Pocahontas.
CHAPMAN, J. W.....	Tazewell.
GILLESPIE, A. P.....	Tazewell.
GILLISPIE, BARNER	Tazewell.
GRAHAM, SAMUEL C.....	Tazewell.
GREEVER, EDGAR LEE.....	Tazewell.
HENRY, R. R.....	Tazewell.
HIGGINBOTHAM, ALBERT SYDNEY.....	Tazewell.
MAY, S. D.....	Tazewell.
SMITH, DOUGLAS H.....	Tazewell.
ST. CLAIRE, GEORGE WALKER.....	Tazewell.

WARREN.

DOWNING, H. H.....	Front Royal.
JACKSON, E. H.....	Front Royal.
O'FLAHERTY, D. C.....	Front Royal.
RICHARDS, W. B.....	Front Royal.

WASHINGTON.

CAMPBELL, PRESTON W.....	Abingdon.
FULKERSON, SAMUEL VANCE.....	Bristol.
HULL, D. D., JR.....	Bristol.
HUTTON, F. B.....	Abingdon.
KELLY, JOSEPH L.....	Bristol.
PAGE, R. M.....	Abingdon.
PETERS, H. G.....	Bristol.
STUART, J. J.....	Abingdon.

WISE.

AYERS, RUFUS A.....	Big Stone Gap.
BOND, W. H.....	Wise.
BULLITT, J. F.....	Big Stone Gap.
FULTON, E. M.....	Wise.
IRVINE, R. T.....	Big Stone Gap.
PEERY, GEORGE CAMPBELL.....	Wise.
SLEMP, C. B.....	Big Stone Gap.
VICARS, O. M.....	Wise.

WYTHE.

BLAIR, JOHN C.....	Wytheville.
BLAIR, R. W.....	Wytheville.
CAMPBELL, A. A.....	Wytheville.
FULTON, JOHN H.....	Wytheville.

ALEXANDRIA.

BARLEY, LOUIS C.....	Alexandria.
BOOTHE, GARDNER L.....	Alexandria.
CARLIN, CHARLES C.....	Alexandria.
CATON, JAMES R.....	Alexandria.
JACKSON, E. HILTON.....	Washington, D. C.
JOHNSON, JOHN M.....	Alexandria.
NORTON, J. K. M.....	Alexandria.
PAGE, THOMAS NELSON.....	Washington, D. C.
TAYLOR, EUGENE B.....	Alexandria.
WELFLEY, M. L.....	Washington, D. C.

CHARLOTTESVILLE.

DUKE, R. T. W., JR.	Charlottesville.
FISHBURNE, JOHN W.	Charlottesville.
GILMER, FRANK	Charlottesville.
HANCKEL, LOUIS T.	Charlottesville.
HANCKEL, LOUIS T., JR.	Charlottesville.
McCUE, J. SAMUEL	Charlottesville.
MOON, JOHN B.	Charlottesville.
MORRIS, GEORGE W.	Charlottesville.
PERKINS, GEORGE	Charlottesville.
SINCLAIR, G. B.	Charlottesville.
WALKER, GEORGE E.	Charlottesville.
WHITE, JOHN M.	Charlottesville.
WOOD, R. H.	Charlottesville.
WOODS, MICAJAH	Charlottesville.
WOODS, SAMUEL B.	Charlottesville.

DANVILLE.

BERKELEY, LANDON C., JR.	Danville.
HAMLIN, THOMAS	Danville.
HARRISON, JAMES P.	Danville.

LYNCHBURG.

ADAMS, R. H. T., JR.	Lynchburg.
BLACKFORD, CHARLES M.	Lynchburg.
BLACKFORD, R. COLSTON	Lynchburg.
BURROUGHS, A. H.	Lynchburg.
CHRISTIAN, THOMAS D.	Lynchburg.
COLEMAN, J. T.	Lynchburg.
DANIEL, JOHN W.	Lynchburg.
EDMUND, JAMES E.	Lynchburg.
GOODMAN, LEON	Lynchburg.
HARPER, FRED.	Lynchburg.
HARRISON, RANDOLPH	Lynchburg.
HENRY, J. RANDOLPH.	Lynchburg.
HORSLEY, JOHN D.	Lynchburg.
HOWARD, D. H.	Lynchburg.
LEWIS, JOHN H.	Lynchburg.
LONG, A. R.	Lynchburg.
MANSON, NATHANIEL C., JR.	Lynchburg.
MURRELL, WILLIAM M.	Lynchburg.
SACKETT, H. M.	Lynchburg.
STRODE, AUBBEY E.	Lynchburg.
WILSON, WILLIAM V., JR.	Lynchburg.

NEWPORT NEWS.

ASHBY, C. AYLETT.....	Newport News.
BAKER, JAMES C.....	Newport News.
BARHAM, T. J.....	Newport News.
BARRETT, W. E.....	Newport News.
BATCHELOR, O. D.....	Newport News.
BICKFORD, R. G.....	Newport News.
BRAXTON, E. M.....	Newport News.
BROWN, J. D. G.....	Newport News.
IVY, HENRY CLAY.....	Newport News.
NELMS, W. J.....	Newport News.
PHILLIPS, LOUIS C.....	Newport News.
ROBINSON, C. W.....	Newport News.
WISE, GEORGE NELMS.....	Newport News.
WOODWARD, W. W.....	Newport News.

NORFOLK.

BAKER, RICHARD H.....	Norfolk.
BURBOUGH, JOHN J.....	Nórfolk.
BURBOW, ALAN G.....	Norfolk.
COLE, J. E.....	Norfolk.
DAVIS, HUGH C.....	Norfolk.
FRICK, GEORGE A.....	Norfolk.
GARNETT, THEODORE S.....	Norfolk.
GARNETT, THEODQBE S., JR.....	Norfolk.
GOODE, JAMES U.....	Norfolk.
GRONER, D. LAWRENCE.....	Norfolk.
HEATH, JAMES E.....	Norfolk.
HEATH, JAMES E., JB.....	Norfolk.
HICKS, R. RANDOLPH.....	Norfolk.
HUBARD, J. L.....	Norfolk.
HUGHES, ROBERT M.....	Norfolk.
JENKINS, JOHN B.....	Norfolk.
LAWLESS, JOSEPH T.....	Norfolk.
LOYALL, W. H. T.....	Norfolk.
MCINTOSH, GEORGE.....	Norfolk.
MILLER, H. G.....	Norfolk.
OLD, W. W.....	Norfolk.
OSBORNE, K. MEADE.....	Norfolk.
PORTLOCK, WILLIAM N.....	Norfolk.
ROSS, W. A.....	Norfolk.
RUMBLE, H. H.....	Norfolk.
SAMS, CONWAY WHITTLE.....	Norfolk.
SEBRELL, JOHN N., JR.....	Norfolk.

SELDNER, A. B.	Norfolk.
SHELTON, THOMAS W.	Norfolk.
SHULTICE, R. W.	Norfolk.
STARKE, L. D., JR.	Norfolk.
STEPHENSON, P. S.	Norfolk.
TAYLOR, TAZEWELL.	Norfolk.
TAYLOR, W. H.	Norfolk.
THOM, A. P.	Norfolk.
THORP, R. T.	Norfolk.
TILTON, JOHN G.	Norfolk.
TUNSTALL, RICHARD B.	Norfolk.
WHITE, WILLIAM H.	Norfolk.
WILLIAMS, W. L.	Norfolk.

PETERSBURG.

DAVIS, CHARLES HALL	Petersburg.
DAVIS, RICHARD B.	Petersburg.
HAMILTON, ALEXANDER	Petersburg.
HAMILTON, ALEXANDER DONNAN	Petersburg.
LASSITER, CHARLES TROTTER	Petersburg.
LASSITER, FRANCIS RIVES	Petersburg.
MANN, BERNARD	Petersburg.
MANN, RICHARD H.	Petersburg.
MASON, GEORGE	Petersburg.
MCILWAINE, WILLIAM B.	Petersburg.
MCKENNEY, WILLIAM R.	Petersburg.
ROPER, BARTLETT, JR.	Petersburg.

PORTSMOUTH.

COLEMAN, C. W.	Portsmouth.
CROCKER, FRANK L.	Portsmouth.
HATTON, G.	Portsmouth.
MARSHALL, R. C.	Portsmouth.
WARNER, A. E.	Portsmouth.
WATTS, LEGH R.	Portsmouth.

RICHMOND.

ANDERSON, JAMES LEWIS	Richmond.
ANDERSON, H. W.	Richmond.
ANDERSON, SAMUEL A.	Richmond.
ATKINSON, HENRY A.	Richmond.
BOWE, STUART	Richmond.
BROWN, WALLACE F.	Richmond.
BRYAN, GEORGE	Richmond.
BRYAN, JOHN STEWART	Richmond.

BRYANT, JULIAN	Richmond.
CABELL, J. ALSTON.....	Richmond.
CANNON, JAMES E.....	Richmond.
CAESON, J. PRESTON.....	Richmond.
CAETER, THOMAS N.....	Richmond.
CABY, HUNDSON	Richmond.
CASKIE, JAMES	Richmond.
CHRISTIAN, FRANK W.....	Richmond.
CHRISTIAN, GEORGE L.....	Richmond.
COALTER, H. ST. JOHN.....	Richmond.
COCKE, PRESTON	Richmond.
COKE, JOHN A.....	Richmond.
COKE, JOHN A., JR.....	Richmond.
COLLINS, ALLEN G.....	Richmond.
COX, EDWIN P.....	Richmond.
CRUMP, BEV. T.....	Richmond.
DANIEL, JAMES R. V.....	Richmond.
DAWSON, LUTHER	Richmond.
DOOLEY, JAMES H.....	Richmond.
DOSWELL, STONEWALL J.....	Richmond.
DREW, LESLIE H.....	Richmond.
ELLIOTT, GEORGE B.....	Richmond.
GIBSON, ALEXANDER STUART.....	Richmond.
GORDON, JAMES W.....	Richmond.
GORDON, THOMAS C.....	Richmond.
GREGORY, ROGER	Richmond.
GRINNAN, DANIEL	Richmond.
GUIGON, A. B.....	Richmond.
GUY, JACKSON.....	Richmond.
HOLLADAY, A. L.....	Richmond.
HOWARD, JOHN, JR.....	Richmond.
HUNTER, JOHN, JR.....	Richmond.
JACKSON, G. CARLTON.....	Richmond.
LACY, R. T.....	Richmond.
LAMB, JOHN A.....	Richmond.
LEAKE, J. JORDAN.....	Richmond.
LEAKE, W. J.....	Richmond.
LEWIS, L. L.....	Richmond.
LONG, E. M.....	Richmond.
MARTIN, M. M.....	Richmond.
MASSIE, EUGENE C.....	Richmond.
MAUBY, MATTHEW F.....	Richmond.
McGUIRE, MURRAY M.....	Richmond.
MEREDITH, CHARLES V.....	Richmond.
MEREDITH, WYNDHAM R.....	Richmond.
MINOR, JOHN B., JR.....	Richmond.

MITCHELL, KIRKWOOD	Richmond.
MONCURE, WILLIAM A.....	Richmond.
MONTAGUE, A. J.....	Richmond.
MONTAGUE, HILL	Richmond.
MULLEN, JAMES.....	Richmond.
MUNFORD, B. B.....	Richmond.
O'FERRALL, CHARLES T.....	Richmond.
PAGE, LEGH R., JR.....	Richmond.
PAGE, ROSEWELL	Richmond.
PATTERSON, A. W.....	Richmond.
PATTESON, S. S. P.....	Richmond.
PICKRELL, JOHN	Richmond.
PILCHER, E. M.....	Richmond.
POLLARD, H. R.....	Richmond.
POLLARD, JOHN GARLAND.....	Richmond.
REESTER, SAMUEL	Richmond.
RICHARDSON, D. C.....	Richmond.
RIELY, HENRY C.....	Richmond.
ROYALL, WILLIAM L.....	Richmond.
RUTHERFOORD, JOHN	Richmond.
SANDS, ALEX. H.....	Richmond.
SCOTT, R. CARTER.....	Richmond.
SHELTON, JAMES L.....	Richmond.
SKELTON, W. O.....	Richmond.
SMITH, H. M., JR.....	Richmond.
SMITH, WILLIS B.....	Richmond.
STERN, JO LANE.....	Richmond.
STRINGFELLOW, CHARLES S.....	Richmond.
TALLEY, ROBERT H.....	Richmond.
TAYLOR, HENRY, JR.....	Richmond.
TENNANT, W. B.....	Richmond.
THOMASON, E. B.....	Richmond.
TOWNES, W. A.....	Richmond.
WELLFORD, B. R.....	Richmond.
WENDENBURG, L. O.....	Richmond.
WICKHAM, T. ASHBY.....	Richmond.
WILLIAMS, CHARLES U.....	Richmond.
WILLIAMS, CHARLES U., JR.....	Richmond.
WILLIAMS, EDMUND RANDOLPH.....	Richmond.
WISE, GEORGE D.....	Richmond.

ROANOKE.

COCKE, LUCIAN H.....	Roanoke.
GLASGOW, WILLIAM A., JR.....	Roanoke.
GOOD, D. SAYLOR.....	Roanoke.

HALL, HABEY T.	Roanoke.
KING, A. E.	Roanoke.
LYLE, EDWARD	Roanoke.
PERKINS, EVERETT	Roanoke.
ROBERTSON, E. W.	Roanoke.
ROBERTSON, WILLIAM GORDON	Roanoke.
SCOTT, ROBERT E.	Roanoke.
SMITH, ROY B.	Roanoke.
STAPLES, A. P.	Roanoke.
WATTS, J. ALLEN	Roanoke.

STAUNTON.

BRAXTON, A. C.	Staunton.
COCHRAN, JOHN B.	Staunton.
CURRY, CHARLES	Staunton.
ELDER, FITZHUGH	Staunton.
ECHOLS, EDWARD	Staunton.
ELDER, THOMAS C.	Staunton.
GLENN, HULST	Staunton.
GORDON, ARMISTEAD C.	Staunton.
HANGER, MARSHALL	Staunton.
LANDES, WM. H.	Staunton.
PATRICK, WILLIAM	Staunton.
QUARLES, J. M.	Staunton.
RANSON, JOHN BALDWIN	Staunton.
RANSON, THOMAS D.	Staunton.
ROBERTSON, ALEXANDER F.	Staunton.
TURK, R. S.	Staunton.
WAYT, HAMPTON H.	Staunton.

WINCHESTER.

ATKINSON, WILLIAM M.	Winchester.
BARTON, ROBERT T.	Winchester.
BYRD, RICHARD E.	Winchester.
CONRAD, HOLMES	Winchester.
KERN, HARRY R.	Winchester.
STEPHENSON, W. ROY	Winchester.
WARD, R. M.	Winchester.

Total active members.....445.

Roll of Honorary Members

SUPREME COURT OF APPEALS OF VIRGINIA.

KEITH, JAMES.....	President	Warrenton.
BUCHANAN, JOHN A.....	Judge	Abingdon.
CARDWELL, R. H.....	Judge	Hanover.
HARRISON, GEORGE M.....	Judge	Staunton.
WHITTLE, S. G.....	Judge	Martinsville.

CIRCUIT COURTS OF VIRGINIA.

PRENTIS, R. R.....	Judge First Circuit.....	Suffolk.
HANCOCK, B. A.....	Judge Second Circuit.....	Manchester.
HUNDLEY, GEORGE J.....	Judge Third Circuit.....	Farmville.
SAUNDERS, E. W.....	Judge Fourth Circuit.....	Rocky Mount.
GRIMSLY, D. A.....	Judge Sixth Circuit*.....	Culpeper.
WELLFORD, B. R., JR.....	Judge Seventh Circuit.....	Richmond.
BLACKSTONE, J. W. G.....	Judge Eighth Circuit.....	Accomac.
WRIGHT, T. R. B.....	Judge Ninth Circuit.....	Tappahannock.
MASON, J. E.....	Judge Tenth Circuit.....	Comorn.
NICOL, C. E.....	Judge Eleventh Circuit.....	Manassas.
HARRISON, T. W.....	Judge Twelfth Circuit.....	Winchester.
LETCHER, S. H.....	Judge Thirteenth Circuit.....	Lexington.
BLAIR, H. E.....	Judge Fourteenth Circuit.....	Salem.
JACKSON, R. C.....	Judge Fifteenth Circuit.....	Wytheville.
SHEFFYEY, JOHN P.....	Judge Sixteenth Circuit.....	Marion.
MILLER, W. T.....	Judge Seventeenth Circuit.....	Wise.
TUCKER, J. RANDOLPH.....	Judge Eighteenth Circuit...	Bedford City.

CITY COURTS OF VIRGINIA.

LAMB, JAMES C.....	Judge Chancery Court.....	Richmond.
WITT, SAMUEL B.....	Judge Hustings Court.....	Richmond.
MINOR, EDMUND C.....	Judge Law and Equity Court..	Richmond.
MARTIN, WILLIAM B.....	Judge Law and Chancery Court..	Norfolk.
HANCKEL, ALLEN R.....	Judge Corporation Court.....	Norfolk.
CROCKER, JAMES F.....	Judge Corporation Court....	Portsmouth.
MULLEN, J. M.....	Judge Corporation Court.....	Petersburg.

* Fifth Circuit abolished—Acts of Assembly 1895-'96, page 273.

CHRISTIAN, FRANK P.....	Judge Hustings Court.....	Lynchburg.
AIKEN, A. M.....	Judge Corporation Court.....	Danville.
HOLT, HENRY W.....	Judge Corporation Court.....	Staunton.
STUART, W. S.....	Judge Corporation Court.....	Bristol.
WOODS, JOHN W.....	Judge Hustings Court.....	Roanoke.

U. S. CIRCUIT COURT OF APPEALS, FOURTH CIRCUIT.

Mr. Chief Justice FULLER.....	Circuit Justice.....	Washington, D. C.
Hon. NATHAN GOFF.....	Circuit Judge.....	Clarksburg, W. Va.
Hon. CHARLES S. SIMONTON..	Circuit Judge.....	Charleston, S. C.
Hon. JOHN J. JACKSON.....	Circuit Judge.....	Parkersburg, W. Va.
Hon. JAMES E. BOYD.....	District Judge.....	Greensboro, N. C.
Hon. EDMUND WADDILL, JR....	District Judge.....	Richmond, Va.
Hon. THOMAS J. MORRIS.....	District Judge.....	Baltimore, Md.
Hon. THOMAS R. PURNELL....	District Judge.....	Raleigh, N. C.
Hon. H. C. McDOWELL, JR....	District Judge.....	Big Stone Gap, Va.
Hon. WILLIAM H. BRAWLEY..	District Judge.....	Charleston, S. C.

Total	44
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CHARTER
OF THE
Virginia State Bar Association

Acts of Assembly 1889-'90, p. 634, c. 376.

Acts of Assembly 1897-'98, p. 327, c. 296.

An Act to Incorporate the Virginia State Bar Association.

(Approved February 28, 1890. Amended February 10, 1898.)

1. Be it enacted by the General Assembly of Virginia, That William J. Robertson, R. G. H. Kean, Thomas Tabb, John W. Riely, James A. Walker, Holmes Conrad, Frank V. Winston, S. Ferguson Beach, John H. Fulton, Charles A. Graves, William R. McKenney, Richard B. Tunstall, James C. Lamb, Charles M. Blackford, William J. Leake, Thomas S. Martin, Alexander Hamilton, James E. Heath, Micajah Woods, George M. Harrison, F. H. McGuire, and such other persons as are now associated with them in the unincorporated society known as the Virginia State Bar Association, or as may be hereafter associated with them under this charter, be and they are hereby incorporated under the corporate name of "The Virginia State Bar Association," for the purpose of cultivating and advancing the science of jurisprudence, promoting reform in the law and in judicial procedure, facilitating the administration of justice in this State, and upholding and elevating the standard of honor, integrity, and courtesy in the legal profession.

2. *The said corporation shall have power to adopt a seal and to change or break the same, to sue and be sued, and in its corporate name to take, institute, and prosecute any action, suit

*Amended Acts 1897-'8, p. 327, c. 296.

or other proceeding in the courts of the land, or elsewhere, for the purpose of punishing or disbarring unworthy members of the profession, or persons assuming its functions which may now be taken and prosecuted by any natural person; to acquire by lease or purchase a suitable building or rooms, library, and furniture for the use of the corporation; to borrow money for such purpose and issue bonds therefor, and to secure the same by mortgage or deed of trust, and generally to acquire by purchase, gift, devise, bequest or otherwise, and to hold, transfer, and convey any and all such real or personal property as it may have and as may be necessary to carry out the purposes of this corporation: provided it shall not hold real estate exceeding in value the sum of one hundred thousand dollars.

3. The said corporation shall have power to make and adopt a constitution and by-laws not inconsistent with the laws of this Commonwealth, rules and regulations for the admission, government, suspension, and expulsion of its members, for the collection of fees and dues, the number and election of its officers, and to define their duties, and for the safe-keeping of its property and the management of its affairs, and to alter, modify and change such constitution, by-laws, rules and regulations from time to time.

4. All interest of any member of said corporation in its property shall determine and vest in the corporation upon his ceasing to be a member thereof by death, resignation, expulsion, or otherwise.

5. The several officers of the said Association at the time of the passage of this act shall continue to hold their respective offices, with powers, duties, and emoluments provided by the Constitution and By-Laws of said Association; until their successors shall be elected and installed, and in case of any vacancy in any of said offices such vacancies shall be filled in the manner prescribed by the Constitution and By-Laws already adopted by said Association, or as the same may, in conformity therewith, be altered and amended by this corporation, and the present Constitution and By-Laws of said Association shall be the Con-

stitution and By-Laws of said corporation until the same shall be altered or amended by said corporation. All property, rights, and interests of said Association now held by any or either of the officers thereof or any person or persons for its use and benefit, shall, by virtue of this act, vest in and become the property of the corporation hereby created, subject to the payment of the debts of the said Association.

6. This act shall be in force from its passage.

Constitution and By-Laws

AS ADOPTED AND AMENDED AT THE

Ninth Annual Meeting of the Association

August 3rd-5th, 1897

WITH SUBSEQUENT AMENDMENTS

PREAMBLE.

Whereas, the following Constitution and By-Laws were adopted by the unincorporated Association known as The Virginia State Bar Association, at Virginia Beach, on the 6th day of July, 1888; and whereas, thereafter, in pursuance of the provisions of the same, a charter of incorporation for the said Association was obtained from the Legislature of Virginia—to-wit, on the 28th of February, 1890, which incorporated into such Association all the members of the unincorporated Association which had met at Virginia Beach on July 6, 1888; and whereas, the said charter conferred upon the corporation the power to make and adopt a Constitution and By-Laws, but such right has not been heretofore formally exercised:

Therefore, Resolved:

1. That we, the Virginia State Bar Association, in convention assembled at the Hot Springs of Virginia, on this, the 3d day of August, 1897, being the same persons or their associates and successors who assembled at Virginia Beach on July 6, 1888, and declared and called themselves the Virginia State Bar Association, do hereby formally adopt and accept a charter granted to William J. Robertson, R. G. H. Kean, and others,

in the name of the Virginia State Bar Association, by the Legislature of the State of Virginia, on the 28th day of February, 1890.

2. That we, as the Virginia State Bar Association, incorporated as aforesaid, do hereby ratify and approve and adopt all the transactions of the Virginia State Bar Association heretofore done and performed, as shown in the minutes and published proceedings of the same heretofore issued.

3. That we, in the exercise of our corporate powers as aforesaid, do hereby adopt the following Constitution and By-Laws for the government of the said Association:

CONSTITUTION.

ARTICLE I.

NAME.

This Association shall be called "THE VIRGINIA STATE BAR ASSOCIATION."

ARTICLE II.

OBJECTS.

This Association is formed to cultivate and advance the science of jurisprudence; to promote reform in the law and in judicial procedure; to facilitate the administration of justice in this State; and to uphold and elevate the standard of honor, integrity and courtesy in the legal profession.

ARTICLE III.

MEMBERS.

1. *Active Members.*—Those members of the Bar who attend the Convention at which this Association was formed, and who

shall then and there subscribe to this Constitution and pay the admission fee, are hereby declared to be members of this Association.

Any member of the Bar in good standing, residing and practicing in the State of Virginia, who shall have been at the Bar of this State at least one year, and any teacher in a regularly organized law school may become a member by vote of the Committee on Admissions, as may be provided in the By-Laws, and upon subscribing to this Constitution, or otherwise signifying in writing his acceptance of membership and paying the admission fee.

2. **Honorary Members.*—All judges of the courts of this State who are not eligible to membership under the preceding clause of this article, and the judges of the Federal courts who are entitled to sit in the United States Circuit Court of Appeals for the Fourth Circuit, are hereby declared to be honorary members of the Association, and shall continue such during their terms of office and no longer.

Honorary members shall not be eligible to any office in this Association, but shall be entitled, without the payment of fees, to all of its privileges and to participate in its proceedings, except such as may be had in connection with complaints against individuals which may be made in matters affecting the interest of the legal profession, the practice of the law, and the administration of justice.

ARTICLE IV.

OFFICERS.

The officers of this Association shall be a president, five vice-presidents—one to be selected from each of the following five grand divisions of the State—viz.: The Southwest, the South-side, Tidewater, Piedmont, and the Valley—and a secretary and treasurer, whose duties shall be such as may be prescribed in

*Amended August 5, 1897—Vol. X, p. 71.

the By-Laws. They shall be elected at the annual meetings hereinafter provided for, except those first elected under this Constitution.

They shall hold office from the adjournment of the meeting at which they are elected until the adjournment of the next succeeding annual meeting, except those first elected under this Constitution, whose terms shall commence upon their election and expire at the adjournment of the first annual meeting. The president and vice-presidents shall be ineligible for re-election until one year after the expiration of their terms of office.

The offices of secretary and treasurer shall be filled by one person, who shall receive as compensation for his services the sum of three hundred dollars per annum, payable quarterly.

All elections shall be by ballot.

*ARTICLE V.

STANDING COMMITTEES.

There shall be the following standing committees of this Association, to be chosen as hereinafter provided, whose duties shall be such as may be prescribed in the By-Laws:

1. *Executive Committee*, to consist of six members.
2. *Committee on Admissions*, to consist of one member from each of the judicial circuits of the State.
3. *Committee on Legislation and Law Reform*, to consist of five members.
4. *Judiciary Committee*, to consist of five members.
5. *Committee on Legal Education and Admission to the Bar*, to consist of five members.
6. *Committee on Library and Legal Literature*, to consist of five members.
7. *Committee on Grievances*, to consist of five members.
8. *Committee on Presentments*, to consist of one member from each of the judicial circuits of the State.

*Amended August 4, 1897—Vol. X, p. 67; amended August 7, 1901—Vol. XIV, pp. 10, 11, 37.

9. *Committee on International Arbitration*, to consist of nine members, five of whom each year are to be selected from the same locality of the State, and three members to constitute a quorum of the committee.

The members of the Executive Committee shall hold office as may be prescribed in the By-Laws, and no member thereof shall be eligible for re-election until one year after the expiration of his term of office.

The members of all other standing committees shall hold office from the time of their appointment until the adjournment of the next succeeding annual meeting and until their successors are appointed.

Such other standing committees as shall be deemed necessary may be provided for by the By-Laws.

*ARTICLE VI.

ELECTION AND APPOINTMENT OF STANDING COMMITTEES.

The members of the Executive Committee, except those first elected under this Constitution, shall be elected at the annual meetings in the manner provided in the By-Laws.

The President shall appoint all other standing committees as soon as possible after his election, and shall announce them to the Secretary, who shall immediately notify the persons so appointed.

ARTICLE VII.

MEETINGS.

This Association shall meet annually in the month of July or August, at such time and place as the Executive Committee may select, and those present at such meetings shall constitute a quorum. Such notice of the meeting shall be given as may be prescribed in the By-Laws.

Special meetings may be called at any time by the Executive Committee, upon such notice as may be prescribed in the By-

*Amended August 7, 1901—Vol. XIV, pp. 10, 11, 87.

Laws; and shall be called by said committee at any time upon the written request of twenty-five members, upon like notice. At a special meeting no business shall be transacted except such as is specified in the call therefor without the concurrence of at least four-fifths of those present; and at such a meeting forty members shall constitute a quorum.

ARTICLE VIII.

FEES AND FINES.

The admission fee shall be five dollars, and the annual dues shall be five dollars, to be paid as may be prescribed in the By-Laws; provided, that the admission fee shall be in lieu of the annual dues for the current year in which it is paid. No member shall be qualified to exercise any privilege of membership while his fees or dues remain unpaid.

ARTICLE IX.

SUSPENSIONS AND EXPULSIONS.

Any member may be suspended or expelled for misconduct in his relations to this Association, or in his profession, upon conviction thereof, in such a manner as may be prescribed in the By-Laws; and all interest in the property of the Association of persons in any way ceasing to be members shall *ipso facto* vest in the Association.

ARTICLE X.

VACANCIES.

In case of a vacancy in any office it shall be filled by appointment of the Executive Committee until the next annual or special meeting; provided, that a vacancy in the office of President shall be filled by appointment of one of the Vice-Presidents. In case of a vacancy in any committee it shall be filled by

appointment of the President until the next annual or special meeting. A person appointed to fill a vacancy shall hold the office until his successor is elected or appointed.

ARTICLE XI.

ANNUAL ADDRESSES AND PAPERS.

At each annual meeting the President shall deliver an address upon some subject to be selected by himself, in which he shall make some suggestions as to the work of the Association as he may deem proper. An address shall also be made by some lawyer of prominence, not a resident of the State, to be invited by the Executive Committee. And papers shall be read by not more than five members of the Association, to be selected by the Executive Committee, as prescribed in the By-Laws.

ARTICLE XII.

AMENDMENTS.

This Constitution may be amended by a two-thirds vote of the members present at any meeting; provided, that if it be an annual meeting, notice of the proposed amendment, subscribed by at least five members, shall be given on the first day of such meeting; and, if it be a special meeting, a similar notice, similarly subscribed, shall be given in the call therefor.

BY-LAWS.

I.

PRESIDENT AND VICE-PRESIDENT.

The President shall preside at all meetings of the Association; he shall deliver the annual address and perform all other duties required of him by the Constitution or By-Laws. In his

absence one of the Vice-Presidents shall preside, and, in the absence of all such officers, such person as may be called to the chair by the meeting.

II.

SECRETARY AND TREASURER.

The person holding the office of Secretary and Treasurer shall be charged with the following duties:

1. He shall keep full and accurate minutes of the proceedings of all meetings of the Association, and of all other matters of which a record shall be ordered by the Association; and he shall carefully preserve its archives and transmit them to his successor in office.
2. He shall, with the aid and concurrence of the President, when by the latter deemed expedient, conduct the correspondence of the Association.
3. He shall keep at all times a complete and accurate roll of the members, officers and committees of the Association, with their addresses; he shall notify new members of their election, and officers and members of committees of their election or appointment.
4. He shall, under the direction of the Executive Committee, issue notices of all meetings of the Association, and in case of a special meeting, shall add a brief note of the object thereof.
5. He shall, as Secretary, report to the Association at each annual meeting, giving a summary of his transactions during the preceding year, and an outline of the business which is to come before the Association at such annual meeting, so far as it relates to propositions or resolutions referred to any special or standing committee at the previous meeting. And he shall be the keeper of the seal of the Association.
6. He shall collect, and, under the direction of the Executive Committee, disburse, deposit, or invest the funds of the Association.
7. He shall keep regular and accurate accounts in books belonging to the Association, which shall be open at all times to the inspection of any member of the Executive Committee.

8. He shall report to the Executive Committee, whenever so required, the amount of money on hand or under his control, and any appropriations or charges affecting the same.

9. He shall, as Treasurer, make a full and detailed report at each annual meeting, showing: (a) The receipts and disbursements of the preceding year, suitably classified; (b) all outstanding obligations of the Association; and (c) an estimate of the resources and probable expenses for the coming year; and any suggestions he may think proper to make.

10. He shall submit his said report and all his books, vouchers and papers relating thereto, to a committee to be appointed by the Executive Committee at its annual meeting, who shall audit and certify said report before its presentation to the Association.

III.

EXECUTIVE COMMITTEE.

1. The members of the Executive Committee first elected under this Constitution shall forthwith divide themselves into three classes of two members each; the first class shall hold office for two years after the adjournment of the first annual meeting, the second class for one year after the adjournment of said meeting, and the third class until the adjournment of said meeting; at the said meeting, and, thereafter at each annual meeting, there shall be elected, by ballot, two members of said committee, to hold office for three years, and such additional member as may be necessary to fill vacancies, if any, to hold office for the unexpired terms of their predecessors.

2. They shall have the general management of the affairs of the Association, and shall make such regulations and take such action, not inconsistent with the Constitution and By-Laws, as may be necessary for the protection of its property.

3. They shall audit all accounts against the Association, and no money shall be paid out of the treasury except upon a warrant signed by their secretary and countersigned by their chairman.

4. They shall, as soon as conveniently may be after their first election under this Constitution, and thereafter as soon as conveniently may be after each annual meeting, invite some lawyer of prominence, not a resident of this State, to make an address before the Association at its next annual meeting, upon some subject to be selected by the person so invited. And they shall at the same time select not more than five members of the Association to prepare and read papers at the next annual meeting, upon subjects to be chosen by the persons so selected or such as may be suggested by the committee.

5. They shall, at least sixty days before each annual meeting of the Association, select a place and a time within the month of July or August for holding such annual meeting, and prepare a printed programme of the proceedings to be held thereat. A copy of such programme and a notice of such meeting shall be mailed to each member of the Association by its Secretary.

6. They shall, at their annual meeting in each year, appoint a special committee of three members of the Association to audit and certify the accounts of the Treasurer before they are presented to the Association.

7. They shall secure the services of a stenographer to report the proceedings of each annual meeting.

IV.

COMMITTEE ON ADMISSIONS.

1. All applications for membership in the Association shall be in writing, signed by the applicant with his full name, and addressed to the Committee on Admissions. The application shall be endorsed by at least two members of the Association not members of the committee, and by the member of the committee from the circuit in which the applicant resides; provided, that if the member of the said committee from any circuit have not registered at any annual meeting, or, having registered, shall have left the place where any annual meeting is held, it shall be the duty of the President of the Association, on the request

of the Chairman of the Committee on Admissions, or, in his absence, of any member thereof, to designate a substitute for the said absentee, with power to act during his absence, naming one from the appropriate circuit, if convenient, or, if not, any other member of the Association.

2. If application be presented at a meeting of the committee, the vote thereon shall be by ballot, and every member present shall be required to vote; one negative vote in every five votes cast shall be sufficient to reject the applicant.

3. If the application be presented during the vacation of the committee the method of proceeding shall be as follows: Upon its receipt by any member of the committee he shall forthwith refer it to the member of the committee from the judicial circuit in which the applicant resides, whose duty it shall be to diligently inquire as to the character and standing of the applicant and his eligibility to membership in the Association. If, upon such inquiry, he finds the applicant free from objection, he shall endorse the application favorably; otherwise he shall withhold his endorsement and communicate his reasons therefor in writing to the chairman of the committee, and forward the application to him. If the application be favorably endorsed it shall be referred to the chairman of the committee, and if favorably endorsed by him and four other members of the committee, including the member from the circuit in which the applicant resides, the applicant shall be declared elected, and the secretary of the committee shall notify the Secretary of the Association of his election. If the application be returned unendorsed by the member of the committee from the judicial circuit in which the applicant resides, or if any member of the committee to whom it is referred refuse to endorse it, it shall be filed by the secretary of the committee until the next meeting of the committee. At such meeting such application shall be disposed of as provided by section 2 of this article. No candidate rejected shall be again proposed within a year.

4. No member of the committee shall disclose to any person the discussions, statements, or votes of any member thereof upon

any application for membership; nor shall the committee's decision upon any such application be made known to any person other than the applicant.

5. It shall be the duty of any member of the committee who has knowledge of any fact which, in his opinion, disqualifies the applicant for membership in the Association, if it be in a meeting of the committee, to state such fact to the committee, and if it be in the vacation of the committee, to withhold his endorsement of the application and communicate such fact to the chairman of the committee in writing.

6. The secretary of the committee shall keep, in a book provided for that purpose, a record of all applications for membership in the Association, and shall preserve the originals of all applications among the archives of the committee.

V.

COMMITTEE ON LEGISLATION AND LAW REFORM.

1. It shall be the duty of the Committee on Legislation and Law Reform to scrutinize carefully all proposed changes in the law, to encourage and promote such as appear to be beneficial, and to check, as far as possible, all such as appear to be hasty or ill-advised; and to consider and recommend to the Association such amendments of the law and of judicial procedure as will facilitate the administration of justice.

2. It shall be their duty, if at any time they deem it advisable, to cause a special meeting of the Association to be called for the purpose of considering pending or proposed legislation.

VI.

JUDICIARY COMMITTEE.

It shall be the duty of the Judiciary Committee to carefully observe the practical working of our judicial system; to suggest, invite, entertain and examine projects and suggestions for

changes and reforms in the system, and to consider and recommend to the Association such action as they may deem expedient.

VII.

COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR.

It shall be the duty of the Committee on Legal Education and Admission to the Bar to take into consideration the subject of legal education and other requisites for admission to the Bar, and to recommend to the Association from time to time such action as they may deem necessary to guard the approaches to the profession from persons unfit for membership therein by reason of character or preparation.

VIII.

COMMITTEE ON LIBRARY AND LEGAL LITERATURE.

It shall be the duty of the Committee on Library and Legal Literature to influence, and, if possible, to secure liberal appropriations for the different libraries of the Supreme Court of Appeals, and wise disbursements thereof; to facilitate the convenient use of said libraries by providing convenient catalogues of the same and seeing that proper rules as to the use of the same be adopted and enforced. They shall also have charge of the library of the Association whenever one shall be established. And they shall recommend to the Association from time to time such action as they may deem expedient.

IX.

COMMITTEE ON GRIEVANCES.

1. It shall be the duty of the Committee on Grievances to hear all complaints against members of the Association, and also all complaints which may be made in matters affecting the interests of the legal profession, the practice of the law and the

administration of justice, and to report thereon to the Association, with such recommendations as they may deem advisable; and in behalf of the Association institute and carry on such proceedings against offenders and to such extent as the Association may order.

2. *Whenever any complaint shall be preferred against a member of the Association for misconduct in his relations to the Association, or in his profession, the person or persons preferring such complaint shall present it in writing to the Committee on Grievances, subscribed by the complaining party, plainly stating the matter complained of. If the committee are of opinion that the matters therein alleged are of sufficient importance, they shall cause a copy of the complaint, together with a notice of not less than five days of the time and place when the committee will meet for the consideration thereof, to be served upon the member complained of, either personally or by leaving the same at his place of business during office hours, properly addressed to him; and they shall cause a similar notice to be served on the party presenting the complaint. At the time and place appointed, or at such other time as may be named by the committee, the member complained of may file a written answer or defence, and the committee shall proceed to the consideration of the case upon such complaint and answer, or upon the complaint alone if no answer is interposed.

The complainant and the member complained of shall each be allowed to appear personally and by counsel. The witnesses shall vouch for the truth of the statements on their word of honor. The committee may summon witnesses, and if such witnesses are members of the Association, a neglect or refusal to appear may be reported to the Association for its action.

The committee, of whom at least three must be present at the trial, except that a less number may adjourn from time to time, shall hear and decide the case thus submitted to them, and shall determine all questions of evidence.

If they find the complaint, or any material part of it, to be true, they shall so report to the Association, with their recom-

*Amended August 4, 1897—Vol. X, p. 67.

mendation as to the action thereon, and, if requested by either party, may in their discretion, also report the evidence taken or any designated part thereof.

The Association shall thereupon proceed to take such action on said report as they may see fit, provided only that no member shall be expelled unless by the vote of two-thirds of the members present and voting.

3. *Whenever specific charges of fraud or unprofessional conduct shall be made in writing to the Committee on Grievances against a member of the Bar not a member of the Association, or against a person pretending to be an attorney or counsellor-at-law practicing in this State, said charges shall be investigated by the Committee on Grievances; and if, in any such case, said committee shall report in writing to the Executive Committee that, in its opinion, the case is such as requires further investigation or prosecution in the courts, the Executive Committee may appoint one or more members of the Association to act as prosecutor, whose duty it shall be to conduct the further investigation or prosecution of such offender, under the instructions and control of the Committee on Grievances.

The reasonable disbursements of the Committee on Grievances for expenses incurred in any such investigation or prosecution may be paid out of the funds of the Association under the direction of the Executive Committee.

All the foregoing proceedings shall be secret, except as their publication is hereinbefore provided for, unless otherwise ordered by a majority of the Committee on Grievances present at the investigation, or, on an appeal, by a vote of a majority of the Association present at any meeting.

4. †It shall be the duty of any member or members of this Association, upon the request of the Chairman of the Executive Committee or the Chairman of the Committee on Grievances, to prosecute any case of professional misconduct occurring in his or their circuit, without compensation, though his or their expenses shall be paid by the Treasurer of the Association.

*Amended August 8, 1901—Vol. XIV, pp. 10, 11, 37, 40.

†Amended July 6, 1898—Vol. XI, pp. 17, 82.

X.*COMMITTEE ON PRESENTMENTS.**

It shall be the duty of the Committee on Presentments, and of each member thereof, diligently to inquire, and true presentment make, of all such matters as may come to their knowledge, apparently offending against the ethics of the profession. No person shall be presented through prejudice or ill-will, nor shall any be left unpresented through fear or favor; but whenever apparently authentic reports of unprofessional conduct or of evils in the administration of justice shall be brought to the knowledge or attention of the committee or of any member thereof, it shall be their duty to present the same to the Committee on Grievances in the manner required by Article IX. of the By-Laws.

XI.**COMMITTEE ON PUBLICATIONS.**

It shall be the duty of the President, on the first day of each annual meeting, to appoint a special committee of three members, to be known as the Committee on Publications, whose duty it shall be to determine which of the papers read at such annual meeting should be published with the reports of the Association, as hereinafter provided.

XII.**COMMITTEE TO RECOMMEND OFFICERS.**

It shall be the duty of the President, on the first day of each annual meeting, to appoint a special committee of five members, whose duty it shall be to consider and recommend to the Association suitable persons for officers and members of the Executive

*Adopted August 7, 1901—Vol. XIV, pp. 10, 11, 87.

Committee to be elected at such meeting; but the Association shall not be confined to the election of the persons so recommended.

XIII.

GENERAL POWERS AND DUTIES OF STANDING COMMITTEES.

Except as otherwise expressly provided, each standing committee shall have the following powers and be charged with the following duties:

1. *Organization*.—They shall organize immediately upon their appointment, or as soon thereafter as possible, by electing one of their members as chairman and another as secretary. They may adopt regulations for their own government and proceedings, not inconsistent with the Constitution and By-Laws, and subject to revision by the Association.

2. **Meetings*.—They shall meet annually on the day preceding the annual meeting of the Association; special meetings may be called by the chairman of any committee, whenever in his opinion it may be necessary or advisable, and shall be called by him upon the written request of a quorum of the committee. At any meeting of any standing committee, other than the Committee on Admissions, three members shall constitute a quorum; and at any meeting of the Committee on Admissions five members shall constitute a quorum.

3. *Records and Archives*.—It shall be the duty of the secretary of each committee to keep full and accurate minutes of each meeting of the committee, and, under direction of the chairman, to conduct its correspondence, and to carefully preserve its archives and transmit them to his successor in office.

4. *Voting by Correspondence*.—They may, by correspondence, consider and vote upon any matter which might properly come before them in meeting. Such correspondence shall be carefully preserved by their secretary, and a minute thereof entered upon his records.

5. *Annual Reports*.—They shall report to the Association at each annual meeting, giving a summary of their proceedings

*Amended August 4, 1897—Vol. X, p. 67.

since the last annual meeting, except such as they are prohibited from making public, and making such suggestions relative to their several departments as they may deem proper.

6. *Printing Reports in Advance.*—When any such report contains any recommendation for action on the part of the Association, it may, in the discretion of the committee, be printed in the manner in which the annual reports are required to be printed, and a copy thereof mailed by the Secretary of the Association to each member thereof at least fifteen days before the annual meeting at which such report is proposed to be submitted.

XIV.

ADDRESSES AND PAPERS.

The annual address of the President shall be made on the first day of the annual meeting immediately after the Association is called to order by the Chairman of the Executive Committee. The address of the person to be invited by the Executive Committee shall be made at the morning session of the second day, and the reading of papers or essays shall be on the same day, or at such other time as the Executive Committee may determine.

XV.

PUBLICATION OF ANNUAL REPORTS, ADDRESSES AND PAPERS.

All papers read before the Association shall be lodged with the Secretary. The annual address of the President, the reports of committees, and all proceedings at the annual meetings shall be published in the annual reports of the Association; but no other address made or paper read or presented shall be published, except by order of the Committee on Publications or of the Association.

Extra copies of reports, addresses and papers read before the Association, not exceeding two hundred copies of each, may be printed by order of the Committee on Publications for the use of authors thereof.

The annual reports shall be published by the Secretary, under the direction of the Executive Committee, and a copy thereof delivered to each member of the Association.

XVI.

CURRENT YEAR.

The current year of this Association shall commence with the 1st day of July of each year, and end with the 30th day of the following June.

XVII.

COLLECTION AND NON-PAYMENT OF FEES AND DUES.

The admission fee (except from those persons declared to be members by Article III. of the Constitution) shall be payable to the Treasurer within thirty days after notification of election; and any member who shall fail within that time to notify the Treasurer of his acceptance of membership and pay the admission fee shall be deemed to have declined membership, and cannot thereafter become a member except by being again regularly elected.

*The annual dues shall be payable to the Treasurer on or before the 1st day of September of each year, beginning with the 1st of September, 1889. If any member shall fail to pay said dues when payable, the Treasurer shall immediately forward to such delinquent member an extract from this By-Law, with notice that if his default shall continue for thirty days his name will be reported to the Executive Committee; which may, if said dues be not paid on or before the 1st day of January following, order the name of such member to be stricken from the rolls, and he shall thereupon cease to be a member of the Association. But upon his written application, satisfactorily explaining such default, and the payment of all dues to the date thereof, the Executive Committee may reinstate any such member who has been dropped from the rolls by virtue of this By-Law.

*Amended July 6, 1898—Vol. XI, pp. 18, 19, 82.

XVIII.**RESIGNATIONS.**

Any member may resign at any time upon the payment of all dues and charges to the Association, including his annual dues for the current year in which resignation is tendered; provided, there be no charges for misconduct pending against such member.

From the date of the receipt by the Secretary of a notice of resignation, with an endorsement thereon by the Treasurer that all dues have been paid, as above provided, the person giving such notice shall cease to be a member of the Association.

XIX.**LIMITATION OF DEBATE.**

No member shall be permitted to speak more than twice on any subject, and in debate no speech shall exceed five minutes in length.

XX.**ORDER OF BUSINESS.**

At each annual meeting the order of business shall be as follows:

1. Call to order by the Chairman of the Executive Committee.
2. Opening Address of the President.
3. Appointment of Committee on Publications.
4. Appointment of Committee to Recommend Officers.
5. Reports of the Secretary and Treasurer.

6. Reports of Standing Committees:
 - (a) Executive Committee.
 - (b) Committee on Admissions.
 - (c) Committee on Legislation and Law Reform.
 - (d) Judiciary Committee.
 - (e) Committee on Legal Education and Admission to the Bar.
 - (f) Committee on Library and Legal Literature.
 - (g) Committee on Grievances.
 - (h) Committee on International Arbitration.
7. Miscellaneous Business.
8. Report of Committee to Recommend Officers.
9. Election of Officers.
10. Election of Members of Executive Committee.

XXI.

AMENDMENTS.

These By-Laws may be amended at any annual meeting of the Association by a vote of two-thirds of those present; provided, that written notice of the proposed amendment shall be given on the first day of such meeting.

APPENDIX

1902



Yours truly
Jas B Gaskill

the people
conscious of its
slighty themes, but
and importance of "
"stem."
Not as an apologist, but
as an actor in a drama, as a



John C. M. Gandy
John Gandy

“The Nisi Prius Judge in our Judicial System.”

ANNUAL ADDRESS

BY

HON. JAMES B. GANTT, OF JEFFERSON CITY

Associate Justice of the Supreme Court of Missouri

Gentlemen of the Virginia State Bar Association:

Yielding to a sentimental desire to revisit your glorious old Commonwealth and scenes hallowed by the most sacred memories of my life, I rashly accepted your invitation to address you on this occasion, without a due consideration of the disappointment it might bring to you.

As soon as official obligations would permit, I began to cast about for a topic and found that the field had been so occupied that little appeared to be left.

The “Trusts” have furnished a magnificent opportunity for those who have addressed our Bar Associations; the great labor upheavals have had their seasons; and “Government by Injunction” has been lauded and condemned in turn. The police power has been examined and reviewed; the right of “Trial by Jury” has furnished a text for eloquent and splendid orations; and “John Marshall Day” has enriched our legal history to a marvellous degree.

Conscious of my own limitations, I shall not attempt such weighty themes, but invoke your consideration of the relation to and importance of “The *nisi prius* Judge in our Judicial System.”

Not as an apologist, neither as eulogist, would I discuss him. As an actor in a drama, so common to the boards, he rarely

evokes mention or notice, save by way of depreciation. But as he is a necessary factor in the system, this is an opportune time to measure him, to weigh him and ascertain if he is worth retaining as he is, and if not, see how he can be improved and how far he may rely on this and similar associations to aid him.

With the self-sacrificing disposition for which he is noted, our circuit or district judge will, to-day, lay aside his robe, and appearing unheralded by his tipstaff, submit himself to the criticism that is born of the skepticism which characterizes our age.

This done, we find he is simply a man, differing only in degree from his more exalted brethren of the appellate courts and his less pretentious friends of the inferior courts.

When we speak of the *nisi prius* judge we refer, of course, to the judges of the common law and equity courts, whether denominated circuit, district or superior courts.

Like the judges of the Supreme Courts, he has been moved to seek his position from mingled considerations of ambition, professional pride and patriotism, three elements that must of necessity enter into the filling of the position, whether it comes to him by appointment or election.

The average man, whether lawyer or layman, is so constituted that he seemingly takes little note of the most beneficent and salutary forces either in nature or organized society, and yet if he were deprived of their influence for a day or even an hour, widespread ruin and disaster would be the inevitable result. As light and the law of gravitation are to the earth, so are the blessings which come to us daily from the administration of justice by an honest, capable and thoroughly equipped, but ill-requited *nisi prius bench*. It cannot be that the importance of able, independent, courageous circuit judges has escaped attention and much earnest thought, and yet, how seldom do we acknowledge our obligation to these hard-worked and faithful servants upon whom we cast the great burden of enforcing our laws, and how rare are the occasions when we

pay them even the poor tribute of a word of commendation—even in an association like this, composed of lawyers who daily witness the services of these judges.

On the other hand the habit, I fear, is growing of depreciating their work, and a disposition to regard these courts as a kind of purgatorial station in which we are compelled to linger awhile in our journeys to the appellate courts.

It is because I am deeply impressed with the injustice done to these courts, not only in failing to recognize their value and importance, but in the niggardly way in which we compensate them, that I have turned from a contemplation of the more exalted tribunals to invoke your attention and assistance toward an elevation and improvement of these, which we can justly denominate "the people's courts."

Our system of jurisprudence, its underlying principles, its methods of procedure, are being subjected to examination and discussion by our respective bar associations, but so far these discussions have been principally devoted to an improvement of appellate methods.

It is true, newspaper writers have proposed many Utopian schemes for the acceleration of trials in the Circuit Courts, but by far the greater portion of the so-called reforms which they advocate, especially in criminal law, would abrogate all that Englishmen and Americans hold sacred. It matters not how perfect your organic law may be; how logical your codes, unless you have trial judges imbued with their spirit, and strong and independent enough to enforce the law, your judicial system must be a failure.

The question, then, the practical, important question which affects the great mass of citizens, and not the small per cent. who are able to prosecute appeals to the appellate courts, is this, "Are our *nisi prius* courts accomplishing the great purpose for which they are organized, that of administering justice at every man's door, and without unnecessary delay, and if not, why not?"

After an experience of thirty years in the courts, I am of the opinion that in the great majority of the States of this Union

the Circuit Courts have to a large degree met the expectation of the people of the several States, and have received and merited the confidence of the bar and people, and I am persuaded that the permanency of our free institutions and the liberties of our people have their surest safeguard in the integrity of these courts, whether the judges have been elected by the people, by the Legislature, or appointed by the executive and confirmed by the State.

In this age of appeals, when every litigant is vouchsafed a hearing in the courts of last resort, I fear that there is a tendency to forget that the purpose of our judicial scheme was to furnish every suitor a court in his own county in which his cause might be heard and determined, and to that end unlimited original jurisdiction in common law actions and suits in equity, and in criminal prosecutions, was conferred upon them.

It was to save the intolerable annoyance to the jurors, and the intolerable expense to litigants, of bringing jurors and witnesses to Westminster, that our English ancestors required the justices to take the record down to the counties in which the facts occurred, and to try the issues there, and this, as we all know, was the origin of the phrase "*nisi prius*," and we, in this country, have inherited this right to have our causes tried before competent courts in our own neighborhoods, and to avoid the expense of trials at places so far removed as to amount to a denial of justice.

Unquestionably, much of the prejudice which has existed against our Federal Courts, is directly attributable to the fact that our Federal districts have been so large that it proved burdensome to litigants therein, and to the additional fact that our people did not know the judges and officials of the Federal Courts, and hence a most unfortunate jealousy of their jurisdiction has been engendered in many sections of our country.

Any system which fails to provide courts easily accessible by litigants, witnesses and jurors, must necessarily be unsatisfactory; moreover, the character of the courts must be such that no invidious comparison can be indulged between them and the Appellate Courts. By Stat. 18 Eliz., c. 12, the Chief

Justice of the King's Bench, Chief Justice of the Common Pleas, and Chief Baron of the Exchequer, were required to try causes upon writs of *nisi prius*, and thus the British subject had justice administered in his own vicinage by the most learned judges of the realm, and it was with a knowledge of English judicial history that we granted to our *nisi prius* courts judicial power in the fullest sense, and it was the purpose of their creation that they should be so organized and officered that the litigant should have the law administered in them in the first instance, and not that they should be mere way stations on the route to the Supreme Courts, which, having only appellate jurisdiction, are as powerless as the lowest courts to revise or control the action of the Circuit Courts until the latter have exhausted their power as the trustees and depositaries of their own extensive judicial authority, and in the exercise of which they are as independent of, and free from, the control of the Appellate Courts, as they are and ought to be from the control of the executive and legislative branches of the government, and it must be conceded by every experienced and thoughtful lawyer that in the examination of facts their opportunities are so superior to the Appellate Courts that it is only in rare and exceptional cases that the latter should ever assume unto themselves the power to interfere with their findings.

Considering, then, the extensive and exclusive original jurisdiction of these *nisi prius* courts, they are tribunals which ought to command the respect of the bar and people alike, on account of their dignity and power.

If, in fact, they do not, it is your duty and mine to ascertain why they do not, and to lend our best efforts to bring them to the high conception of the founders of our government.

Remembering the unbridled criticism to which our Circuit Courts are subjected, not only by the ignorant and venal, but by those of us, who ought to, and do know better, the respect which the people of all classes in this country still yield to and retain for our trial courts is most significant, and most encouraging to those of us who love our free institutions, and desire to see them perpetuated. That we have been able, so far, to induce

lawyers of ability, gentlemen of unimpeached and unimpeachable integrity, to accept these judgeships for the utterly inadequate salaries which in nine out of ten States we pay them, is little less than marvellous, and speaks volumes for that *esprit de corps* of our bar which prizes these judicial honors without regard to the meagerness of the compensation.

In an age when the commercial spirit threatens to ignore all fundamental principles in its race for wealth, the courts and the bar so far stand out as a marked and conspicuous exception.

But should we longer take the chances? Human nature sets small value upon the things that cost little. Is it not high time that the people should be educated to the importance of seeing that their courts are not depreciated because of the niggardliness of their compensation? We are often met with the argument, and I regret to say I sometimes hear it from lawyers, that so long as we get the best or among the best lawyers for our circuit judges at our present low salaries, we need not tax ourselves to increase their compensation; in other words, we ought not to bid against ourselves; a strange misconception of what we owe to ourselves—forgetting that these courts are *our* courts, and it is our duty to so adjust their salaries that these judges who have the power, and whose duty it is, to decide upon the right to life, liberty and property, should be provided with a support which would at least not suggest temptation, and would leave them free from immediate anxiety concerning the means of a comfortable existence for themselves and their families.

Is it not a strange conception of relative importance, that in many of the States, as in Missouri, in the matter of compensation we place the circuit judge, upon whom is devolved the duty and power of trying the very issues of life and death; of liberty, and the most important and sacred property rights, in districts averaging one hundred thousand souls, on the same level with the chief clerks of the State Auditor, State Treasurer and other executive departments, and below that which we pay our county recorders of deeds, county collectors of revenue, and the Assistant of the Attorney-General, and a third less than we

pay our Railroad Commissioners, whose most onerous duty is a trip to the capital to draw their salaries. Is it not time that the bar should speak out and insist on a correction of this outrageous inequality—seeing that self respect forbids these judges appearing at the legislative door and humbly begging for a proper and appropriate compensation for their services.

I rejoice that in many States the trend is now in the direction of more liberal salaries, and I am sure that when all the States adopt the policy of just compensation for their *nisi prius* judges, and for that matter, for *all* judges, we will have the most capable lawyers on our circuit bench, and the judiciary will be correspondingly elevated in the estimation of both people and bar. In no State ought the salary to be less than \$3,600.00, and in the rich and populous States they ought to receive at least \$5,000.00 per annum.

All thoughtful men agree that to insure an effective and satisfactory judiciary the tenure of the office must be long enough to insure the independence of the incumbent. I do not think the term of the circuit judge should be less than six years.

My recollection is that in Virginia you elect for a term of eight years. In Missouri the term is six years. In each, the judge who proves himself worthy is certain of re-election, so long as he retains his mental and physical capacity to perform the duties of his office.

In Missouri, while largely descendants of Virginia, we have not followed your method of electing by the Legislature, but the people elect all judges. We believe that no position in government can be so exalted that its occupant should be exempt from high responsibility to the people in the aggregate, and that a sense of such responsibility in nowise lessens the efficiency or destroys the independence of the judge. We feel that we have demonstrated that the pessimistic opinion so often expressed in the early days of the Republic, that the people could not be safely entrusted to fill these high offices, was without foundation, and that the mistakes of the bar and the people

in electing their own judges have been quite as rare as those made by the Governors and Legislatures in other States. Our system has elevated to our supreme bench in Missouri such jurists as William Scott, William B. Napton and Abiel Leonard, judges whose learning and impartiality have enriched not only the jurisprudence of their own State, but of our common country, and we mention with pride that only once in the last fifteen years has the judgment of our Supreme Court been reversed by the Supreme Court of the United States, and in that case by a divided court, and then solely on a question of Federal jurisdiction. This same system has produced a Ryan, in Wisconsin, and a Scholfield, in Illinois, each of whom were Democrats, nominated by Democratic conventions, in strongly Republican States, and triumphantly elected. Mr. Justice Miller, who was a strong advocate of the appointing system, said in his address before the New York State Bar Association in November, 1878, "that it must be confessed that the party conventions have been much more careful in their nominations for judicial offices than in those of any other class." The elective system now obtains in nearly all the States, Georgia having adopted it in 1895 for the election of her Supreme Court.

In measuring our individual circuit judge, his competency may be tested largely by the character of his court. If we should visit his court room and find him in his place on the bench, clerk and sheriff on hand, members of the bar present, causes regularly and carefully and courteously disposed of; if, when a motion or demurrer is called for argument, each side is patiently and politely heard, and opposing counsel treat each other candidly and show "the sweet small courtesies" that refine our lives; if, when a jury is demanded, the regular panel step promptly in the jury box, and when a witness is called, he is in waiting, and when he takes the stand, is treated as a disinterested party, and not as a criminal, and is not permitted to be hectored and badgered out of his wits, we at once recognize that we are in a place dedicated to the administration of justice, and we are ready to say, in *such* a place, and by *such* a court,

justice will be done and the dignity of the law maintained. But if in another circuit, we find the judge, not on the bench but sitting by the fireplace smoking his pipe; and we discern no apparent restraint on bar, witnesses, jurors or spectators, and when counsel address the court, they remain sitting or in half recumbent position, and when an objection is made, it is the signal for a wrangle and a game of seesaw with the court, and when the objection is overruled, hear the objecting counsel in loud and supercilious manner demand that his exception shall be noted; and if scanning the court room the *feet* of the *bar* on the bar tables are the most prominent objects, and these, though not at all diminutive, scarcely discernible in the smoke that rises from cob pipes and villainous cigars, it will require no painter to depict the disgust that such a scene will excite.

For such a court neither bar nor public will have any respect, neither does it deserve any. Mr. President, both sketches have been true to life in some of our greatest States; they are not the figments of disordered imagination.

Thank God we have about left the last to a merited oblivion. I presume you have never seen it in this grand "Old Dominion," and doubtless you never will.

When we consider that it is in the person of the *nisi prius* judge we expect the dignity of our courts to be preserved; that it is to him we look to preserve at all times the true relation between litigants, counsel, witnesses and jurors in his court; that he is expected to see that crime is punished in his circuit and the innocent protected, notwithstanding the clamor of the rabble; when we demand of him expeditious trials, and to track the law, though surrounded by attorneys burning with zeal and eloquence for their clients, and to hold on to the golden cord of justice in all the mazes and labyrinths into which astute and able counsel seek to lead him, do I announce any heresy when I say that the *nisi prius* judge ought to be no less learned and equipped than the supreme judge, and that the public weal would be better subserved by having him even an *abler, firmer* and *readier* man than the appellate judge? If such he always

were, it would prove the most effectual way of relieving the overcrowded dockets of our Supreme Courts, of which we hear so much.

What matters it to the trial judge, that he sees, feels and realizes that by his impartial enforcement of the law, the earnings of a lifetime of honor and industry are to be swept away by his judgment, or worse yet, what is it to him that in a moment of temptation or trial it may be, an act is committed for the perpetration of which, he sees not only the liberty or life of the culprit in the balance, but the hopes and record of generations of honorable men and women about to be forever blasted—the pride of a century devoted to patriotism and virtue brought low; what is it to him that he hears the smothered sob of a broken-hearted wife or mother, or sees a pearly tear, more eloquent than all the speech since Adam's time, trickle and fall; his heart must be steel; his eyes must be "unused to the melting mood," and looking over and beyond human misery, and uninfluenced by former or present extraneous knowledge, he must see the cold, stubborn facts, and seeing them he must write "*ita lex scripta est*," or be accused forever.

And thus we have seen him, true to the obligations of his oath, with an eye single to the honor of his position, loyal to the law whose representative he was, hold the scales of justice with an unshaken hand, despite the demands of an infuriated populace on the one hand, and the efforts at delay on the other.

At other times, when a thoughtless, and sometimes a venal press have for personal or political reasons assailed him, we have seen him bear himself as only one who is conscious of his own integrity and imbued with a sense of his lofty calling can conduct himself, and perform his duty impartially, feeling and knowing that his vindication would come when passion subsided and reason resumed her sway.

With such conditions an appellate judge has nothing to do. He sees only the cold and inanimate record and is required to look only to see what errors of law, if any, were committed, little

suspecting what varied emotions of sympathy and indignation his brother on the circuit had experienced in dealing with the living characters who figure in that record.

How different the duties of the two!

The *nisi prius* judge sees a case unfolded for the first time. Facts of which even the most industrious counsel are ignorant, are unexpectedly developed, oftentimes clashing with the pre-conceived theories of both sides; their relevancy must be determined and the cause must proceed. Little or no opportunity is afforded to consult precedents. The arguments are made without preparation and the trial court must rule. The cause reaches the Supreme Court. In the meantime the whole subject has been explored. Authorities have been found on both sides. Exhaustive discussions at the bar of the Appellate Court place the question before that court so lucidly that the right of the case is made clear. The appellate judge, with ample opportunity to review and consider the questions, at length hands down what the successful appellant is pleased to call a *luminous* and *exhaustive opinion*, and the wonder is that the *nisi prius* judge ever made such a blunder in deciding otherwise. I submit, gentlemen, that this is no fair test of the ability of the two judges. Reverse the conditions, and the probabilities are that this same appellate judge, especially if he has been long on the bench, would have committed the same error, and added a number of others to it, or if the same library had been accessible to the circuit judge, that was at the disposal of the Appellate Court, he would have decided the question right in the first instance. I am led to this line of comment because I desire to emphasize my condemnation of the practice of some appellate judges in indulging in sarcastic and unjudicial utterances in regard to the rulings of their brethren on the circuits. I know the difficulties that beset both, and I appeal for a broader charity and greater respect on the part of both the appellate courts and the bar for our *nisi prius* courts.

The trial of a law suit in the *nisi prius* court is so different from the cold, critical work of the Supreme Court in examining the transcripts for error, that it is hard to compare the two.

The circuit judge is the consulting architect, to whom all the plans and specifications are submitted before the building is commenced. Even more, he is the master builder, who superintends the structure as it proceeds.

He must repair each false step, must tear out and rebuild until the whole is symmetrical.

He must carefully inspect all materials used, reject the faulty, accept the suitable.

He must contend with the winter's freeze, and the summer's heat. In the execution of his plans all the vices, shortcomings, misfortunes and mishaps to his workmen must be counted.

Finally, when his work is done, there may be the inattention or the oversight of an employee a discolored brick in the front wall, or an unsightly knot-hole in the finishing, or a crack in the plastering of some rear room, but for all substantial purposes of shelter from the summer sun or wintry blast, it is a goodly house.

Not such your supreme judge. He deals with none of the beggarly elements of brick and stone. He deigns no converse with hod-carriers or journeymen carpenters, but waits till all the rubbish is removed and the dust swept out, and then with the cold eye of the critic and expert walks through the building, and, forgetting that it is far easier to tear down than to build up, points out each minute defect, and rejects the work because it does not comply with all the specifications.

Having indicated our sympathy for the *nisi prius* judge we can, without offense, express our view of what the ideal Circuit Court should be.

To measure up to the full stature, he should, first of all, be a man "*sans peur et sans reproche*." His life should be the most eloquent of all pleas for all that is pure, just and lawful. What he teaches and expounds by precept, he must not by example belie.

If from his high place he charges, as he must, against wrong, crime and immorality, and seeks to lead the people to a higher and purer atmosphere of social life, his own life must be blameless. The spectacle of a judge reading a homily to the

grand jury against gambling and vice, and then indicted by the same grand jury for gambling, would shock the bar and public alike, and prove an incurable blow to the administration of justice by him in his circuit.

He should be one who loves justice. He should be a patient listener, but at the same time have a capacity for the dispatch of the business of his court. He must keep the control of his docket.

The *nisi prius* judge is seen in his best or worst light in the trial of a cause with a petit jury, accordingly as he measures up to the magnitude of the occasion.

The framers of the Constitution of the United States and of our several State Constitutions were so jealous of the right of trial by jury that they were unwilling to let it rest on the unwritten or common law, but imbedded it in these organic charters in language so lucid and explicit that it can not be evaded, save by destroying these Constitutions.

Lord Camden said: "Trial by jury is indeed the foundation of our free Constitution; take that away and the whole fabric will soon moulder into dust."

But we all know that the common law trial by jury was "trial by *court* and *jury*." Under that system and ours, "the judge determines the law, and the jury the fact."

Each in their appropriate spheres is essential to a rational determination of the rights of the parties before the court. Neither must trench upon the province of the other. It is when they exert on each other a mutual and salutary control that they reach their highest moral plane and best justify the wisdom of the system.

It is the trial judge who must understand and enforce the great fundamental principle of jury trial. It is his function to ceaselessly guard this right of the litigant, especially if the litigant be a defendant in a criminal prosecution. It is his duty to see that the jury is indifferent between the Commonwealth and the prisoner at the bar.

Whatever criticisms have been indulged in the past on the failure of juries to reach exact justice, it is at least true that

their *recorded errors* number far less than those which the highest courts have committed and confessed in their innumerable overruled cases.

As for myself, the longer I live and the more closely I observe the result of jury trials, the more I am inclined to agree with that English writer who says that "when we consider the impartiality required and enforced in returning juries, and the properties which the law requires in every juryman when returned, we may almost doubt whether human wisdom is capable of providing a more perfect method of determining the truth of facts consistent with the liberties of a free people, at least we may conclude that it has not hitherto done it."

But it is when the constitutional jury is obtained, and the trial proceeds, that the *nisi prius* judge is himself placed on trial. It is then he invites the closest scrutiny. From the moment that the first witness is called until the verdict is rendered it is his part to guide the trial in the paths of the law.

He must not be a mere idle spectator of a gladiator's struggle for victory, indifferent as to the victor, but he must feel that the sublime purpose of the trial is the administration of justice, the highest function of man. He must realize in the language of Judge Caldwell that "reduced to its last analysis, the intelligent and impartial administration of justice is all there is of free government." He must bring to the discharge of the duties of his high trust his greatest sense of justice and right. He should be thoroughly acquainted with the principles of law governing the case, and to that end he must have explored the rich fields of jurisprudence and gathered therefrom their choicest fruits. He must be an impartial arbiter. He must be alert to discover the heresies propounded on either side.

He must be careful in deciding a question of evidence to keep his own views as to its weight to himself, passing only on its competency or incompetency, for ignorant as some suppose the average juror to be, he is, in fact, most astute in watching the judge, and quick to accept the mental and moral bent of the court.

While he must not deny the freedom of argument, he should rigidly require counsel to keep within the record and the testi-

mony, because it is the very essence of a fair trial, that the issue shall be determined according to the law and the testimony.

The common law practice adhered to in the Federal courts, and in some of the States, imposes upon the trial judge a most delicate duty. It is very hard indeed for him to charge the jury without indicating his own view of what the verdict should be.

With us in most of the Western States we require the judge to give his instructions on the law in writing, and forbid his commenting upon the evidence, endeavoring in this manner to obey Lord Coke's injunction that "the judge must not respond to questions of fact, but only the jury."

When the jury return their verdict the trial judge is called upon to exercise one of the most important of all his duties, that of determining whether a new trial shall be granted. Sir William Blackstone long ago summed up the necessity of lodging in the *nisi prius* courts the power to grant new trials. He said: "If every verdict was final in the first instance, it would tend to destroy this valuable method of trial." "Either party may be surprised by a piece of evidence which he could have explained or answered, or may be puzzled by a legal doubt which a little recollection would have solved. In the hurry of a trial the ablest judge may mistake the law and misdirect the jury; he may not be able so to state and arrange the evidence as to lay it clearly before them, nor to take off the artful impressions which have been made on their minds by learned and experienced advocates."

But to an association of learned lawyers I need not discuss the self-evident necessity of an opportunity for re-examination of a question of fact before a jury.

A motion for a new trial is one of the essential requisites in the administration of justice in our system of trial by judge and jury, and yet we have all witnessed "a painful weakness in the dorsal region" when our circuit judges are called upon to exercise this power which is conferred to guard against the mistakes, passions, prejudices and ignorance of jurors.

The *nisi prius* judge has a higher and more responsible duty than to merely record the verdicts of juries. As sacred as the right of trial by jury is, to subserve its great purpose, the right of the judge to set aside a verdict must be preserved along with it.

If by misdirection of the judge, error is committed, he should be the one to correct it speedily, and if error is found, the unsuccessful party should have the wrong remedied at once, and not be compelled to await the judgment of the Supreme Court for two or three years and until the subject matter of the litigation has been completely dissipated, as was the cargo of ice while Lord Eldon was still doubting.

But however able, honest and courageous our *nisi prius* judge may be, he can never succeed without the co-operation of an able and honorable bar; a bar that feels its high calling, and realizes its power for good in the State; one that will banish from its circle the trickster, shyster and pettifogger.

In your own splendid Code of Ethics you have well said: "The purity and efficiency of judicial administration which under our system is largely governmental itself, depends as much upon the character, conduct and demeanor of attorneys in their great trust, as upon the fidelity and learning of courts or the honesty and intelligence of jurors."

I am persuaded, my brethren, that our National and State Bar Associations have given a greater impulse toward the elevation of all our courts, and not the least of their achievements has been the elevation of the standard for admission to the bar.

If I have a harsh criticism to make upon our circuit bench, it is upon their loose methods of admitting incompetent persons to the bar, and yet I recognize that often, in so doing, they have yielded to the importunity of the older members who were in turn moved by a misdirected sympathy.

It is no kindness to a young man who is unfitted for the practice to permit him to assume the grave responsibilities of our profession, and he and the courts would be spared much mortification if the *nisi prius* judge would only have the firm-

ness to reject every applicant who fails to stand a searching examination; and last, but by no means least, furnish proofs of good moral character.

When our *nisi prius* judges, in the language of the Constitution of Maryland, "are most distinguished for their integrity, wisdom and sound legal knowledge," and are aided by an enlightened and faithful bar, then, and not till then, can we boast: "We will sell to no man, we will not deny or defer to any man, either right or justice."

Gentlemen of the Virginia State Bar Association, I believe that reform is needed in our *nisi prius* courts. I believe we have grown indifferent to their needs largely on account of the facility with which we afford appeals.

I believe these courts should be better paid; that they should be made so honorable and dignified that our best lawyers would be ambitious to be judges therein. I believe this reform is practicable by enlarging our circuits, increasing the salaries and adopting methods in harmony with the twentieth century.

I have always been classed with the conservatives, indeed, by some I am considered a Bourbon, but I believe the time has come when the car of justice should quicken its pace. When I first came to the bar in Missouri we had only two terms of court in each year, and the first term, save in suits on notes and direct promises to pay money, was merely the pleading term, and the cause was not triable at that term.

We have now made all cases triable at the first term provided service is had fifteen days before the first day of the term.

In some of our sister States the plaintiff can direct that the writ of summons shall be returnable in not less than ten nor more than sixty days, without regard to terms of court, and thus the settling of the issue is greatly expedited. This is a step in the right direction. In these days when time and space are almost obliterated in the transaction of business by the use of the telephone, telegraph and express, there is no reason why the courts of justice should travel in the antiquated stage coach.

Your experience and mine teaches us that the delays in our procedure very often result in an absolute denial of justice

and it is a common remark that the commercial classes are beginning to shun the courts because they cannot afford to wait two and three years for an adjustment of their differences.

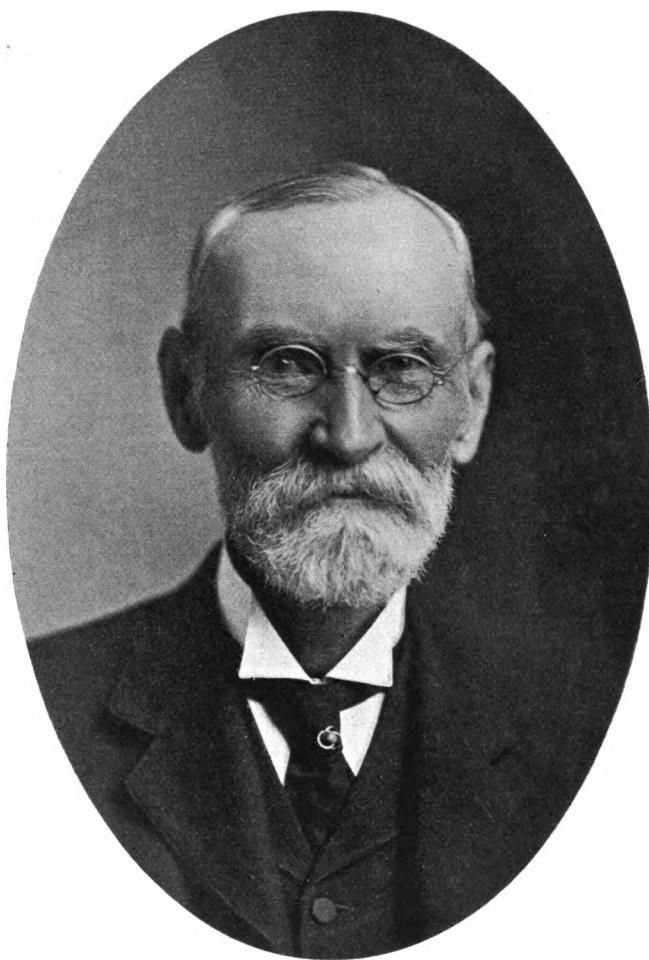
The Legislature should remove this ground of complaint. Our terms, if terms we must continue to have, should be more frequent and the time for pleading shortened. Appeals should be simplified and the questions certified for decision to the Appellate Courts should be concisely stated and the expensive and burdensome transcripts pared down with a heroic knife. I believe that the bar of Virginia, so glorious in legal reforms in the past, a bar which produced a Jefferson, who, without precedent, wrote your statute of descents and distributions, and thereby furnished a model for the distribution of property throughout the United States, in language so lucid that not a controversy arose over a sentence in it for forty years; a bar which boasts its John Marshall, Patrick Henry, William Wirt, Benjamin Watkins Leigh, the Tuckers, Robertson, Daniel, Moncure, Green, Staples, Burks, Joynes and Christian and their great contemporaries, and you will permit me to add, the bar which constitutes this association, is the body to inaugurate and carry forward this much needed reform.

Those of us who have learned what manner of men you are, by association with you from 1861 to 1865; who account ourselves your brethren by the holy ties of a common sacrifice, and who have witnessed your triumphs in more recent trials, have absolute faith in your capacity to devise, your courage to inaugurate and your power to secure every needful reform in your judiciary system, and furnish a guide for your brethren in your sister Commonwealths. All over this broad land, there are thousands yet, who remember that it was a Virginia lawyer, Patrick Henry, who first lead the apparently forlorn hope of constitutional liberty on these Western shores; that it was a Virginia lawyer who penned the Declaration of Independence, that immortal declaration which the gifted Buckle declares should be inscribed upon the portals of every royal palace, and hung in the nursery of every King in Europe; and that John Marshall

and James Madison, two other Virginians, were the great expounders of the Constitution of the United States, a Constitution which a Virginia Legislature first proposed.

There are thousands of us yet who cherish with filial affection the memories of the struggles of "the Old Mother" to preserve that Constitution, and the rights it guaranteed to us and our children, and we are still willing to place you in the vanguard and support you in the future as we have in the past in your efforts to preserve the spirit of liberty on your consecrated soil, and to transmit it to those who shall come after us, and as in the past, we look to the Bar of Virginia to blazon the path and lead in the solution of the great questions which are crowding upon us in common with you.

Gentlemen of the Virginia State Bar Association, if I were not profoundly sensible of the distinguished honor you have conferred upon me by your invitation to address you on this occasion, I would be less than a man. If I had adequate words to express the gratitude I feel for the kindness and courtesies you have extended to me and mine during my stay among you, I would be more than a man. I can only say, I thank you.



THOS. C. ELDER

A D D R E S S

OF

MAJOR THOMAS C. ELDER

President of the

Virginia State Bar Association

Private Business Corporations in Virginia

Gentlemen of the Virginia State Bar Association:

Using the word *materialistic* in its popular rather than in its philosophical sense, the present age is pre-eminently a materialistic age. Certainly it may be so characterized amongst the modern ages of the world. Materialism of the kind referred to has grown apace in recent years. The accumulation of wealth and its appropriation to the uses of physical comfort and pleasure engross the attention of the civilized world to an extent heretofore unknown.

Naturally the studies of men and their best efforts will be directed towards the accomplishment of what they most desire, and to this end they will avail themselves of all the means and resources within their reach; hence it is that the science of Economics, or the science of the accumulation of wealth, its

uses, and distribution, is the favorite science of the present day; and it may be noted that the accumulation of wealth and its uses for selfish purposes command much more attention than does its distribution for the public welfare. Scarcely a century has passed since Political Economy, the oldest form or branch of what is now usually designated by the more comprehensive name of Economics, assumed the form of a science, or could be regarded as such, although some subjects which it embraces were treated by Aristotle. But the whole science in its wider scope now engages the attention of the great leaders and masterful minds of the business and financial world before all other sciences and learning—they in this respect, if in no other, pursuing the arrangement of Aristotle in placing Physics before Metaphysics. Evidently they do not agree with him in the opinion that all knowledge is equally valuable, and is worthy of pursuit mainly for its own sake.

Nothing which has been said, or which may be said in this connection, is in the way of railing or condemnation. My purpose is to recognize actual conditions and to draw from them lessons that may be more or less useful in shaping the industrial policy of our State.

No longer ago than the first half of the nineteenth century most of the talent and much of the learning and culture in this country were devoted to the study of philosophy and science of government, and found active exercise in the higher ranges of politics; in the latter half of the century, and more especially in the last third of it, these gifts and attainments were in large measure turned towards industrial pursuits and great enterprises for the accumulation of wealth. This is still the tendency, and with ever-increasing acceleration. And it is especially noteworthy that these pursuits and enterprises, conducted for the most part on a large scale, have required, and by means of liberal remuneration have secured, much of the best legal talent and learning formerly content to be occupied in other ways.

It would perhaps not be much out of the way to say that prior to 1860 the millionaires of the United States might be

counted on one's fingers. After that time they increased rapidly, not only in numbers, but in the aggregate of their possessions as well.

This diversion of attention from the affairs of government and politics to industrial fields was not due more to the example of those who had been the most successful in industrial pursuits than to what seemed to be a new-born desire or determination prevalent amongst all classes to improve the physical conditions of existence, and to make the world easier and more enjoyable in all that relates to human wants and comforts in this life. In other words, from whatever cause or causes, the apotheosis of wealth had begun.

As long, however, as the race in pursuit of worldly possessions, and of the pleasure, power and influence which are supposed to accompany them, was open to all and fair, notwithstanding only the most gifted and judicious and energetic and persevering won the great prizes—as, indeed, from the great disparity in the endowments and habits of men must always be the case—the great multitude of losers and those not in the race were not disposed to be complaining or unduly envious. The wealth of individuals conducting their respective business enterprises separately and independently of each other, so far from injuring their less gifted and less successful fellow-men, is usually a positive benefit to them. Without the labor and services of the poor, the rich cannot increase their wealth or enjoy it as they would like; and the poor, in return for what they do for the rich, are provided with the means of living.

Moreover, as long as wealthy men conduct their business operations separately they are competitors in the employment of labor, and every laboring man gets the benefit of the competition, and his wages are regulated by the natural and healthy law of supply and demand.

Mr. Jefferson, in his first inaugural address as President of the United States, which has generally been regarded as the best outline of the essential principles of our government which has ever been penned, in a spirit of patriotic enthusiasm summarizes our great national advantages and blessings and states

what should be our governmental policy as follows: "Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradations of the others; possessing a chosen country, with enough room for our descendants to the thousandth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisition of our own industry, to honor and confidence from our fellow-citizens, resulting not from birth, but from our actions and their sense of them; enlightened by a benign religion, professed indeed, and practiced in various forms, yet all of them inculcating honesty, truth, temperance, gratitude and the love of man; acknowledging and adoring an overruling Providence, which by all its dispensations proves that it delights in the happiness of man here and his greater happiness hereafter—with all these blessings, what more is necessary to make us a happy and prosperous people? Still one thing more, fellow-citizens—a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned—this is the sum of good government, and this is necessary to close the circle of our felicities."

The concluding sentence of this extract, answering the interrogatory propounded by this great man to himself and his countrymen, is perhaps as good statement of the *laissez faire* theory of government as it is possible to compress within the same compass. And if a government on this plan, not merely professedly through its official promulgations and utterances, but actually in its practical administration, and likewise the great body of people who live under it be permeated and controlled by the ethics, to say nothing of the spiritual teachings of that Christianity so highly extolled by this most eminent statesman, usually classed, as he is, amongst freethinkers, and industrial methods had continued as they were in his time, perhaps nothing would be left to be accomplished by legislative enact-

ments towards diminishing the great natural inequalities amongst men and towards protecting the weak against the strong.

But things have changed since Mr. Jefferson's day. Verily *tempora mutantur et nos mutamur in illis*. The present state of industrial development and the present methods of business were far outside of his intellectual horizon, wide as it undoubtedly was.

At the time he became the executive head of the government he assumed that individual effort, unhampered by restrictions of any sort, and natural competition, and no other, would always be the chief rules in the struggles of economic life.

The *renaissance*, or more properly speaking, the new departure in the industrial and economic pursuits to which reference has been made and its rapid and constantly expanding growth, has been attributed to a number of causes, chief amongst which may be reckoned the many inventions in labor saving machinery, the enlarged applications of steam as a motive power and the greatly increased use of electricity for the manifold purposes it has been made to serve; and doubtless the extension of popular education, and the general diffusion of intelligence, facilitated by a most prolific and enterprising press, have contributed largely to these changes. And it may be here noted that popular education and the newspaper press have been specially instrumental in awakening the laboring classes to a knowledge of their rights and power, and in stimulating the formation of the labor unions hereinafter mentioned.

The peoples of the world have been brought much closer together than ever before, and industrial and financial schemes scarcely before dreamed of have been made possible. These schemes require aggregations, and consequently combinations, of capital and business talent and energy on an unprecedented scale. Indeed, it has been claimed that the revolution in business methods and the scale upon which business, to be profitable, must be done, consequent upon the enlarged uses of steam,

electricity and labor saving machinery render these aggregations and combinations not only convenient, but essentially necessary.

At any rate, the masterful minds engaged in the business affairs of the world were not slow in recognizing their value and in determining to take steps to make them available.

But neither individuals nor associations of individuals, whatever the aggregate of their combined wealth, were willing to risk their entire fortunes in these great schemes, however promising and inviting they might be.

Within my easy recollection, nearly, if not quite all, of the British companies for insurance against fire, doing business in this country, in every risk underwritten by them imposed an unlimited liability on their individual shareholders. But the idea of unlimited liability in enterprises carried on by associations was never popular with American capitalists, and when large combinations of capital seemed very desirable in order to the carrying on of any business on a scale to make it profitable, the idea of the corporation, with limited liability, suggested itself.

In considering the condition of two or more rival corporations at a later stage of modern industrial development than that for the present moment under consideration, when competition has reduced prices below the cost of production and something seems necessary to curtail production and regulate prices, it has been said that in this emergency combination steps in like some *deus ex machina*, making peace between the rivals and relieving the situation; and this observation would seem equally applicable to the advent of the limited liability corporation when individuals and partnerships are coming together for a combination of their means and resources at the outset of a united enterprise.

The corporation as a convenient agency for carrying on business was by no means new; it had long been in use, and in a general way had answered its purposes very well. But before the late revival of interest in them there had been comparatively but few very large and wealthy corporations in this country,

or, indeed, elsewhere, and those that existed were public service corporations or of the character of such. Now there are in existence and active operation many corporate enterprises, the magnitude of which less than a century ago would have been regarded as quite impossible. And their growth, especially in very recent years, has been truly phenomenal. Should there be no change in existing tendencies, the proportions to which some of them may grow is almost beyond the imagination.

Not only have these great corporations been formed in various parts of our country for carrying on business in their respective sections, but combinations of capital and resources proving remunerative to the several corporations acting separately, combinations were made amongst these bodies themselves. And when the courts interfered to dissolve or prevent these corporations, on the ground that they violated the rules of the common law against monopolies and contracts in restraint of trade, resort was had to what are known as holding companies. These combinations and consolidations are all, in common parlance, designated as trusts. They continue to multiply and increase in magnitude, and apparently to increase in prosperity in proportion to their growth in size. These great combinations in capital, business experience and administrative talent have naturally brought about amongst the laborers in their service great combinations known as labor unions, with the result that the trusts and the unions are in a state of continual antagonism with not infrequent conflicts in the shape of "strikes" and "lock-outs." And the toiling masses on the outside are usually in sympathy with the toilers in the unions. What is to be the final outcome, no man knoweth. Even the most thoughtful amongst those who have made the problem a study can make no predictions as to the result that are satisfactory to themselves, much less to others. One of the great statisticians and economists of England said a few years ago, that before the science of economics could be properly written, another science would have to be written—the science of human nature. At present there is apparently no limit to these combinations on the part of capitalists, and in some departments of the country's

business, notably just now in the business of steam transportation both by land and water, it would seem that one corporation or trust might compass it all, and thus establish a practical monopoly—unless human nature should rebel.

At times it would seem that the socialistic tendencies of capital for the benefit of the few might be merged in what is called "State Socialism" for the benefit of all. The thinkers in the more advanced school of socialists, not condemning these socialistic tendencies, but rather welcoming them as natural, say the logical result should be governmental socialism for the benefit of all the people. And it has been said by others, who are not socialists, that at no distant day there may be presented the alternative of ownership of the government by the trusts or the ownership of the trusts by the government.

But I am not here to discuss this great question.

Non nostrum est tantas componere lites.

These immense combinations are referred to now as evidencing the value of the corporate idea in the accomplishment of the greatest results—results, too, good in themselves, and of incalculable benefit to the general public, if not diverted by the corporate management to improper ends. Whilst these great enterprises can be, and too often are, made engines for the accomplishment of the greatest abuses, there is no necessary connection between their uses and abuses.

The corporate idea prevails in almost every department of business in this country. And the corporation as an instrumentality or agency of business is with us, and is with us to stay. Under proper legal restrictions and under the management of competent and honest officials, it can be made to accomplish in the future, as it has in the recent past, results alike important and beneficial, and on a scale quite beyond individual or partnership enterprise.

The task I have set for myself to-day, is to submit to this Association some thoughts and to make some suggestions in relation to *Private Business Corporations in Virginia*.

In so doing, I will not make more than incidental reference to public service or *quasi* public service corporations, nor to

such mammoth corporations as the great steel trust, the Standard oil trust, the sugar trust and the tobacco trusts. My aim will be to consider single corporations, or incorporated joint stock companies, created for the purpose of conducting business in its various channels, and upon a capitalization or basis of stock subscription within reasonable limits.

In comparison with other States, corporations, and especially private business corporations, have not been numerous in Virginia.

In Tate's Analytical Digested Index, covering the first forty-three volumes of the Virginia Reports down to and including 2d Grattan (1846), there are under the title of Corporations only twenty-two cases, and certainly not more than fourteen of these can be considered as relating to private business corporations, including the banks of the State, in the most of which the State itself owned large interests. The twenty-two cases mentioned embraced foreign as well as domestic corporations. It is true, under the head of Bank there are found to be eleven cases, and under the head of Mutual Assurance Society there are eleven cases, but a number of those under the last named two heads are duplicated under the more general title of Corporation. And under the title of Insurance there are only three cases in which corporations were directly interested as parties; and under the title James River Company, there are three cases. Those cases involving municipal corporations are few in number and are embraced under the general title of corporation.

In Martin's Index to the Virginia Reports, from Jefferson to Vol. 91, both inclusive, under the general title, Corporation, the cases are divided into two classes—the first class embracing those which relate to corporations in general; the other those relating to municipal corporations. The number of cases in the first class is about one hundred, many of them relating merely to the methods of service of process and to questions of pleading, practice and evidence; the number of cases in the other class, pertaining to municipal corporations, is about seventy-

five. Under the title of Insurance there are about seventy cases. And there are a few under the title of Bank, and possibly also a few under some other title or titles.

In the eight volumes of Virginia Reports, from 1892 to 1898, both inclusive, there are reported about one hundred cases relating to corporations of all kinds other than municipal corporations, and of those relating to municipal corporations there are a little over thirty. It thus appears that during the period covered by the last named eight volumes, a little more than five years, there has been, comparatively, a striking increase in the business of our court of last resort involving the law relating to corporations.

This increase was doubtless due in a measure to the number of mushroom companies which sprung up during the recent "boom" period, which will be referred to a little further on.

The number and character of the cases that find their way to the court of last resort in a State from any particular department of the law, are perhaps a fair indication of the extent and importance of the business governed by the rules and principles of such department; and, judged by this test, corporations in Virginia, and especially domestic corporations, for the conduct of private business enterprises, have been neither numerous nor attractive to business interests in the past.

Another test of the value and importance of any branch of business in a State, and also of any particular agency or instrumentality by which business of any sort may be carried on, is the extent and character of the legislation relating to such business and to such agency or instrumentality. If corporations for the conduct of private business in the State in the past be judged by the condition of our own State law for their creation and government, one would not suppose that they had been regarded as of any great importance.

The body of our statute law to-day relating to all classes of corporations may be not inaptly designated as *crudis indigestaque moles*. This observation applies with special force to title 18 of the Code, purporting to treat of corporations generally, and to the first chapter of the next succeeding title, 19,

this latter title purporting to treat of chartered companies, common carriers and railroad commissioners. There is but one chapter, No. 46, in the consecutive numbering of chapters in the Code, in the first named title, and it covers only eight pages, the chapter heading being as follows: *Of corporations generally; especially of the property a corporation may take and the disposition of it when the corporation is dissolved; crossings; connection of railroads terminating in a city or town; incorporated companies to keep certain offices in the State, and every foreign corporation doing business in the State to appoint an agent therein upon whom process may be served.*

An examination of the chapter itself shows that it is quite as much of a medley as its caption would indicate. Its heterogeneous character is the more remarkable, in view of the fact that there is a much longer chapter in the Code, entitled *Of Works of Internal Improvement.*

Several of the sections of chapter 46 make provision for the condemnation of lands wanted for works of internal improvement, and these same sections also provide for the condemnation of land by a county, city, town, the Institution for the Deaf and Dumb and Blind, and the several lunatic asylums of the State for their respective purposes; and there is no provision elsewhere in the Code authorizing the exercise of the right of eminent domain.

But the first chapter, under Title 19, is much worse than this. The chapter heading is "*Of Joint Stock Companies Generally; and of Companies Chartered by Courts.*" Which of the provisions of this chapter relate exclusively to legislative charters, which to court charters, and which to both, it is difficult to determine with any degree of precision. The materials for this chapter were gathered from many Acts of Assembly, of limited scope, and passed at different times; and taken as a whole it is a notable piece of patchwork—a sort of legislative crazy-quilt.

I have heard competent lawyers discuss the question, whether a court charter could confer powers upon private business corporations wider than or different from those prescribed by

our general statutes for corporations of like character chartered by the Legislature, and I am not advised that this question has ever been directly passed on by our Court of last resort.

Appended to the case of *Haskin Wood Vulcanizing Company v. Cleveland Ship Building Company*, as reported in the third volume of the Virginia Law Register, is a somewhat extended note, written on behalf of the late lamented Judge Burks, then editor of the Register, the object of which was to show that Sec. 1149 of the Code, contained in this chapter, prohibiting the creation of preferences by joint stock companies, applies to companies incorporated by the courts, and not to those chartered by the Legislature; and whilst our Court of Appeals in a recent case has held that this section does apply to corporations chartered by the courts, so far as my information extends it has never been decided by any tribunal whether it applies to corporations created by the Legislature or not, in the absence of any positive provisions in the charters themselves on the point. There have been other cases in which the prohibition against preferences has been upheld, but I do not recall that in any of them it appears that the corporation whose rights were involved had been chartered by the Legislature. This note shows more fully, perhaps, than it has been done elsewhere, the conglomerate character of this chapter.

Again, in the recent case of *Coalter, Receiver v. Bargamin, et als.*, 99 Va., 65, this Court found it necessary to decide that when a charter has been granted by a Circuit Court, pursuant to Sec. 1145 of the Code, and lodged with the Secretary of the Commonwealth for recordation, the corporation so chartered has a legal existence, and may sue and be sued as a corporation, although the minimum capital, or indeed a single share of the capital stock, may not have been subscribed. Near the end of the opinion in this case the Court says: "We fully agree with the learned counsel for the plaintiff that no body of persons should have a corporate existence until the minimum amount of the company's capital had been subscribed, but that is a ques-

tion of policy which the Legislature, not the Courts, must determine. We can only administer the law as it is written."

These cases are mentioned merely as illustrations of the many defects and uncertainties to be found in our statute law pertaining to corporations.

Between the years 1888 and 1892 there sprung up in different sections of Virginia quite a number of joint stock companies, which were chartered by the courts under our statutes, substantially the same then as they are now. These companies were usually designated as land and improvement companies. Nearly every one embraced in its scheme the building of a city or town and the establishment of manufacturing industries. In some instances, owners of lands near a railway station, or in some other locality supposed to be eligible for the purpose in view, capitalized their holdings at an extravagant valuation, then caused to be chartered a company and sold shares on the basis of such capitalization. In most instances, however, there was a syndicate of promoters who purchased lands from their owners with a view to their capitalization for joint stock purposes, and then formed a company to take them over at a price greatly in excess of that paid for them, the amount of the capital stock being fixed upon the basis of the increased valuation. Much rhetoric, always fervid and often glowing, was expended by the promoters, or at their instance, in the prospectus, designed to set forth the advantages and to forecast the alluring profits of the scheme on hand. Public opinion seemed to be ripe for the reception of such enterprises, and sheaves of stock were readily sold, much of which was paid for in good and lawful money of the United States. Sometimes the promoters got part of this money, and in almost every case they got blocks of stock, usually stamped as full-paid—the money and stock representing the difference between the original cost of the lands to the promoters, or its real value, and the price at which they were sold to the company formed for taking them over.

In the formation of such a corporation, the promoters, by way of characterizing their advantageous position, were said to

be on the "ground floor"; and when an individual was tendered admission to this floor, it usually proved to be a temptation he could not resist.

The applications or certificates required by the law as foundations upon which the orders of incorporation were based, as well as the orders themselves, were usually drawn by lawyers, and the differences between these papers, save in those instances in which the papers in one case were copied from another, were many and various. And where it came to the matter of organization preparatory to business, the mode of procedure was hardly alike in any two cases. The fact is that, with a few exceptions, the members of the profession were without experience in such work, and our statutes being so obscure and imperfect in their provisions, it was difficult to determine just how the organization in any particular case should be managed. Indeed, the statutes prescribe no forms for organization, and do not state the steps to be taken to this end.

The sale of lots at first was very active, and prices soared beyond even the most sanguine expectations. Speculation ran wild. After a while prices began to sag, and before a great while sales were difficult at any price. Meanwhile, calls on stock subscriptions continued with unfailing regularity, although work on the industrial plants had ceased, and share holders were receiving no profits on their investments in the form of dividends or otherwise. Dissatisfaction followed, the mutterings of a storm brewing in the distance became audible; and then it occurred to the more thoughtful that even the "ground floor," in the event of a collapse, might not be a place of absolute security. Promoters' profits, and the statements contained in the prospectus, and its omissions as well, began to attract attention, as did also the law applicable to these matters. A class of English cases, conspicuous amongst which is *Erlanger v. New Sombrero Company*, which found its way through all the courts to the House of Lords, was invested with an interest which to the legal profession in Virginia it had never had before. The development of the law of corporations, especially in respect to the subjects mentioned and cognate

matters, was in England quite a number of years in advance of what it was in this country, notwithstanding the singular fact that the incorporated joint stock company, with a limited liability, was introduced into Great Britain in 1856 from the United States, where it had, in the more densely populated and prosperous States, been in successful use for a considerable time. However, the courts in this country had begun to follow the English cases of which *Erlanger v. New Sombrero Co.* is perhaps the leading one; and for a while there was not a little confusion, coupled with a considerable degree of apprehension.

But it was not long before there was a general collapse of all these enterprises, and the corporations, as such, passed out of existence, save in so far as they were formal parties in winding up proceedings. The general result, as to most of those interested in them, was the loss of much money and the acquirement of some sad, but perhaps profitable experience. And the most of the legal profession knew something more about corporation law in general, and particularly of our statutes relating to this branch of the law, than they did before the advent of the booms.

One chief cause of the utter failure of these enterprises was that there was no sufficient reason for their existence. There was nothing in the condition of the State or of its people which called for their formation. Moreover, from the first they were speculative schemes, and there is no field in this State for schemes of a merely speculative character.

Notwithstanding the general revulsion against corporations consequent upon the failure of these land and improvement companies, business corporations of a non-speculative and otherwise legitimate character are beginning again to attract the attention of the business classes in our State, and interest in the subject, it is submitted, should be encouraged by the law-making power within reasonable limits and under proper safeguards and restrictions. Indeed, under present industrial conditions and methods of business, if Virginia would grow in

material wealth, she must quicken her step and endeavor to lessen the distance between herself and some of her more prosperous sister States; to this end imitating their example to a greater or less extent. As soon as corporations for carrying on legitimate business are made worthy of public confidence, they will receive it.

Massachusetts, with a territorial area only one-fifth that of Virginia, but with a population one and a half times as large as that of Virginia, had within her limits at the end of the last calendar year considerably over four thousand business corporations of all kinds, the aggregate capital stock of which, exclusive of savings and co-operative banks, which have no capital stock, was assessed for taxation at a valuation not far from seven hundred millions of dollars.

Both Massachusetts and Virginia were among the original Thirteen, and at the outset each had the same chance for working out its industrial destiny.

The climate of Virginia was decidedly better than that of Massachusetts; its soil, acre for acre, was richer; its harbors and facilities for commerce and manufactures were at least equal to those of her Northern sister; and, indeed, there was scarcely a single gift of nature in respect to which the Old Dominion was at a disadvantage.

True it is, that the descendants of those who landed on Plymouth Rock, like their ancestors, were and are a sturdy, industrious, persevering people—a people who have made and still make the most of their natural resources, and who from the first have made it a rule of life to save at least a portion of their earnings, however small they might be. Still, after due allowance is made for these sterling qualities and habits, and also for the tremendous losses sustained by our own State during the late Civil War, and in consequence of it, we must look to other causes to account for the great increase in the population of Massachusetts and of its wealth. And in the last half or three-fourths of a century it is believed that chief

amongst these causes has been the habit of combining capital and labor by means of joint stock companies, incorporated, and with limited liability, in the conduct of private business enterprises on a larger scale than could otherwise have been done; and in the establishment of savings and co-operative banks as depositaries not only for the preservation of the surplus earnings of the people, but for their accumulations in the shape of interest as well.

On the 31st day of October, 1901, there was on deposit in the savings banks of Massachusetts \$560,705,752.64, and the average throughout the year was not much below this amount.

These savings banks, as has already been said, have no capital stock, and their management is inexpensive, only the treasurer and his clerks receiving salaries, and yet the investment of the funds, made by a special committee, chosen for the purpose, are so guarded and restricted by law, that there has been less than one-twenty-fifth of one per cent. lost in any way during the life of these institutions. It has frequently occurred to me that a business corporation whose stock, or a part of it, is divided into small shares, might be a good substitute for a savings bank, in so far as its stock afforded people of small means a safe investment for their surplus earnings. Co-operative banks are really not banks at all, but building and loan associations, and the law governing them is said to be the best law of its kind to be found on the statute books of any State. These associations have been very successful.

For this and other valuable information, I am indebted to Hon. W. D. Trefry, commissioner of corporations for the State of Massachusetts.

It may be here stated that, in addition to the commissioner mentioned, there are in Massachusetts a board of railroad commissioners, commissioners of savings banks, trust companies and co-operative banks, gas and electric light commissioners, and an insurance commissioner.

This brief comparison between Virginia and Massachusetts, in considering the subject of private business corporations, has been made because the laws of the latter State providing for

the creation and government of domestic corporations, and for the control and regulation of foreign corporations as to so much of their business as may be carried on within that State, are usually regarded as more stringent than the laws of most of the other States of the Union. And, if I were allowed to express an opinion, it would be that the so-called stringency of these laws is the secret of their successful operation in the way of enabling the corporations to realize satisfactory profits for themselves, and at the same time to promote the public welfare.

The so-called anti-stock watering laws of this State are more or less famous, but an examination of them would seem to show that they are just.

Our recent Constitutional Convention addressed itself, with earnestness, to the consideration of corporations, both public and private, and after exhaustive discussion and the most careful consideration, adopted an article concerning them quite as full and elaborate as can be found in the Constitution of any of the States. This article was framed with great care, and its language is perspicuous and apt. If upon a few points its provisions are not as definite as could be desired, they are perhaps as definite as it seemed practicable for them to be made.

So far as it relates to public service corporations, and especially to transportation and transmission companies, its provisions, whilst under consideration in the convention, developed a decided difference of opinion as to their policy and wisdom, and this difference probably still exists to a greater or less extent. But along the lines upon which the committee in charge of the matter thought these provisions should be drawn, and the sequel seemed to show that a large majority of the convention concurred with the committee as to the correctness of these lines, the work could not perhaps have been better done.

In a synopsis of this article on corporations, given to the newspaper press for the benefit of the public by the chairman of the committee by which it was framed, he, after referring to the State Corporation Commission, which he thinks will probably be one of the most important departments of the entire State government, speaks of it in relation to private corporations as

follows: "So far as it affects private corporations, its functions are few and simple, and its powers very limited. With respect to these corporations, the commission only issues and amends charters as above explained, and sees that they make such annual reports as the statutes may require of them." This, in connection with another statement made in the synopsis referred to, that all private legislation granting charters or corporate powers of any sort is strictly forbidden, and that such matters are to be provided for by general laws of which all persons will be free to avail themselves, clearly indicates that in the enactment of laws for the creation and government of private business corporations in this State, the Legislature will have a rather free hand. And it is not going too far to say that the work of adjusting the statute law to the organic law upon this subject is scarcely of less importance than that performed by the convention in framing this part of the organic law.

In the first place, it is important to determine how far the Legislature should go in this business, and how much should be left to the courts to be wrought out under the general law pertaining to corporations. This suggests a partial consideration of the issue between the Codifiers and Anti-Codifiers.

Jeremy Bentham, the great apostle of Codification, never lost an opportunity of denouncing the common law in the most unmeasured terms, and maintained, with all the earnestness of his nature, that all the laws of a country should be in writing; and in the event a case should arise not within the provisions of the written code, he thought it should be left undecided. The Legislature might, by amending the law, provide for similar cases in the future, but as to what disposition is to be made of the case which arose when there was no statute covering it, is left an open question. His contention was that as justice and right are the foundations of all law, "Legislators, having freed themselves from the shackles of authority, have learned to soar above the mists of prejudice, know as well how to make laws for one country as another." He did, indeed, admit that a Code maker ought to have some knowledge of the circumstances of

those for whom it is made; but at the same time maintains that a foreigner could better draft a Code for a people than one of their own number, because less prejudiced.

Montesquieu, it may be observed, held an opinion directly to the contrary, maintaining that the laws of one nation can rarely, if ever, be adapted to the wants of another.

In the interesting address of Professor Charles Noble Gregory, of Wisconsin, before this Association, at its annual meeting in 1900, upon "Bentham and the Codifiers," to be found in the Report of that year, we are told of the multitudinous labors of Bentham in his efforts to reform the law, and especially in the manufacture of codes. He prepared a code for almost every civilized or semi-civilized nation and people of his day, and besides usually kept a ready-made stock on hand. And his codes were not made for one branch of the law only, but covered the entire field. In the same address we are told of the work of Bentham's English disciples, conspicuous amongst them being Sir James Fitz James Stephen and John Austin, and of his American followers, amongst whom are Edward Livingston and David Dudley Field, in the work of law reform, and declares that scarcely a single reform has been effected within the last century that was not suggested and advocated by Bentham. But in ascribing so much credit to Bentham and his followers, it may be suggested that Professor Gregory, for the most part, overlooked the operation of the law of evolution which always keeps pace with the progress of civilization, and is indeed a part of this progress, and the probability that the changes in the law of which he speaks might have been largely the result of this law.

At the first annual meeting of this Association, which was held in 1889, the principal address was made by Mr. James C. Carter, of New York, whose subject was "The Provinces of the Written and the Unwritten Law." And it was an address of great ability, evidencing deep research and reasoning powers of the highest order.

Dividing the laws of a State into two parts, one of which he designated as *public* and the other as *private*, he maintains

that the portion which he describes as public law must of necessity be written, but that the other part, the private law, should not be, because, amongst other reasons, it *cannot* be. The public law, he says, consists mainly of ordinances dividing the State into various political districts and creating governmental machinery, general and local, providing for the creation of a great variety of offices, and prescribing their duties, and a great many other things pertaining to the State as a gigantic and complicated corporation, which he declares it to be. All laws for this purpose, from their very nature, must be in writing; for as but very few of them are laws for the regulation of conduct, only a very few have any direct relation to the science of jurisprudence, and consequently cannot be evolved from the original sources of law through the process of judicial decision. On the other hand, it is contended to be impossible for the private law, by which is meant that great body of rules for the regulation of the conduct of men in their ordinary transactions with each other, and which principally engages the attention of lawyers and courts, to be reduced to writing, because in this department or realm of law are constantly arising cases, which it is impossible to foresee, or even to conjecture, and, therefore, cannot be provided for beforehand. It is maintained that the law must necessarily follow the facts of a case, and cannot be declared or ascertained until the actual facts arise and are seen in all their circumstances and environment. Only in this way has the law in Great Britain and in this country been developed heretofore, the courts always having resort in the last alternative to the principles and spirit of that eternal justice "which sits enthroned behind all human enactments and judicial decrees." Whilst taking this general view, it is conceded by Mr. Carter "that there are occasions in the life of every State for making abrupt changes in the body and policy of private law, and such changes can be effected only by legislative intervention." And he might have added, with safety, that there are other occasions, owing to conflict of decisions amongst the courts and other causes, which require

the action of the law-making power, however difficult or indeed impracticable it may be to completely codify the law, or indeed any particular branch or department of it.

The act of the General Assembly, approved March 3, 1898, and designated as the Negotiable Instruments Law, is more or less an attempt to codify the law of commercial paper, although it is declared to be an act "to revise, arrange and consolidate into one act the laws relating to negotiable instruments (being an act to establish a law uniform with the laws of other States on that subject)." It could not have been intended as a complete codification of this branch of the law, and considered as sufficiently comprehensive to cover all cases that can possibly arise, for it is expressly stated that "in any case not provided for in this act the rules of the law merchant shall govern."

But the Codifiers and Anti-Codifiers are agreed that some portion of the private law should be embodied in statutes, and whilst it would be, so far as I am capable of judging, decidedly injudicious to attempt a codification of the laws relating to private business corporations that will aim to embrace all cases whether they have heretofore arisen or not, there must be legislation sufficient to give the provisions of the new Constitution full force and effect, and also to provide for the government and regulation of this class of corporations in a variety of other very important respects.

My suggestions in respect to this legislation must needs be brief, and only of a general character.

In the first place, it will probably be found necessary to discard the chapters of the Code pertaining to corporations as they now exist, and to recast the law of the subject. This observation is more particularly applicable to the *arrangement* of the present law. It contains some good provisions, and these can be utilized in the new structure and made clearer and better than they are in their present form and connections.

No merely speculative corporations are needed in Virginia. As a general rule, they are evil and only evil. Sometimes a railroad is built on speculation by a company chartered for the purpose, and after it is built the country through which it

passes is more or less benefited by it; but such a company almost invariably passes through several reorganizations before it gets into good working condition, with the result that shareholders who pay money for their stock, lose it all, and frequently some classes of bondholders fare no better. The promoters and manipulators get everything.

But at present, we are considering private business corporations, usually designated as joint stock companies, and it may with safety be affirmed of these that they should never be formed for other than purposes of legitimate business.

Nor should one company of this character be allowed to engage in business of too many different kinds. In the laws of a number of the States the different kinds of business that may be done by an incorporated joint stock company are specified, and in some of the States no one corporation can engage in more than one or two of these different kinds of business. I have known charters to be granted to joint stock companies by courts in this State, which undertook to confer upon a single company the right to engage in any and every kind of business that it is lawful for an individual to engage in. If this is allowable, the stockholders in such a company could do, or have done for them, the work of their lives in all its various departments, upon a basis of limited liability. The unincorporated public in doing business with these incorporated companies or associations would spend much time in the examination of their charters and in looking into their condition before determining whether they are worthy of credit. And the greater the variety of business a single corporation is allowed to do, the more nearly would the inconvenience and risk of those dealing with it approximate that inconvenience and risk of dealing with a corporation chartered to do anything and everything an individual may do, acting in his own right and upon his unlimited liability.

As, according to the Declaration of Independence, all men are created equal and all are endowed by their Creator with certain unalienable rights, so, according to my Lord Coke, who was the embodiment of the spirit of the common law, "when

a corporation is duly created, all other incidents are tacitly annexed." "And," he further says, "for direct authority in this point in 22 E., 4, Grants, 30, it is held by Brian, Chief Justice, and Choke, that corporation is sufficient without the words to implead and be impleaded, etc., and, therefore, divers clauses subsequent in the charters are not of necessity, but only declaratory, and might as well have been left out." Then he proceeds to enumerate the attributes of every corporation with which it is invested upon its coming into existence. But these attributes, much more limited than are the "unalienable rights" of the individual, are further restricted in their exercise, to the business in which the corporation by its charter is allowed to engage; whereas the natural rights of the individual may be exercised in all the various businesses and transactions of life in which men may lawfully engage.

It is very important that the capital stock of a joint stock company, incorporated for the transaction of business of a private character, should not be too large, and the statutory regulations for the consolidation of two or more of such companies should be definite and strict. It is only the great corporations and aggregations of corporations that are dangerous to the public interest. Amongst other evils incident to large corporations is that of watering the stock. The larger the capital stock of a corporation the greater is the opportunity and also the temptation to increase its shares to an amount beyond, and frequently far beyond, the actual value of the basis on which they rest. The object of the last section of the article of the new Constitution on corporations is to protect original shareholders and investors in stock and also the public at large, against fraud and deception, by requiring every corporation, whether private or public, before issuing any stock or bonds to file with the State Corporation Commission a statement, verified by the oath of its president or secretary, setting forth fully and accurately the basis, or financial plan, upon which the stock or bonds are to be issued, and where such basis includes services or property (other than money) such statement shall accurately specify the services and property,

together with the valuation at which the same are received or to be received. This is an excellent provision, and very wisely it also provides that other restrictions may be added by the Legislature to accomplish the object in view. In some of the States, notably in Massachusetts, a statement of the value of the property and things, other than money, which it is proposed shall constitute, in part, payment for the stock of the company, is required to be made and sworn to, not only by its president and treasurer, but also by a majority of the managing board of the corporation, describing such property and things, and the value at which they are to be taken in payment for stock—the valuation contained in the statement to be further verified by the certificate of the Commissioner of Corporations, that he is satisfied the same is fair and reasonable; and there is usually a further provision that should the property or other things be taken at more than a fair valuation, the president, treasurer and directors signing the statement shall be liable for the debts of the corporation to the extent of the excess in valuation.

Under existing industrial conditions corporations are really necessary for the conduct of many business enterprises, which, to be conducted with profit, require more capital than an individual or partnership is willing or can put into them. And, as already stated, a State or community which would keep pace with the march of material progress must make use of them.

But to be really valuable, they must be constructed and maintained on solid foundations.

For any number of individuals to be allowed to associate themselves together for the conduct of an important business enterprise upon a capital, large in itself, but made up of comparatively small contributions for each one, without liability beyond the actual imput or sum agreed to be contributed, the profits and losses to be shared and borne by them in proportion to the amount of stock held by them respectively, is a very valuable privilege. It is also a valuable privilege for each member of the association to have the right to dispose of his stock at any time, and thus sever his connection with it. And so is the continuity of the association, without interruption by the

death of members or other cause, a great privilege. These are privileges which can be conferred only by the State, which, in conferring them, is under the highest obligation to do so without detriment to any of the people, of all of whom it is in this, as in all other governmental matters, the representative and agent. In return for these privileges, which are conferred upon the association by a grant or charter constituting it a corporation, the association owes to all the people of the State important duties.

The business of the corporation must, of necessity, be managed by a board of directors or other managing body of a similar character, with the assistance of a president or other chief executive officer, a treasurer, a secretary and other officials and agents. It is not practicable for the shareholders to participate in the everyday management of the business, and it is only at annual meetings, or at other stated times, that they are informed of the results of the management.

It is, therefore, essential to their interests that the management be conducted with diligence and with the utmost honesty and fidelity. In order to insure this, the managing board and other officials and agents should be held to a rigid accountability, and in all cases of intentional misconduct or of serious neglect, they should be visited with certain punishment. This is absolutely essential to the success of the corporate enterprise and the consequent security of those who own its capital stock. A majority of the shareholders can usually protect themselves against protracted mismanagement on the part of the directors and other officials by changing these officials at stockholders' meetings, but it too often happens that the managing board and a majority of the shareholders fraudulently combine to deprive the minority shareholders of their just rights. The ways and methods of doing this are many and various. Usually, in such cases, the net earnings of the corporation are improperly diverted year after year, so that no dividends are paid, and the stock is thereby depreciated to an extent that forces the minority holders to dispose of their shares at a sacrifice. Stringent laws should be enacted for the protection of the rights of the

minority in such cases; the majority, as well as the directors, should be treated as trustees for the minority, and no freezing out or squeezing out should be permitted. The equity courts can be relied on to enforce legislation for this purpose if the law making power will provide it.

A minority of the stockholders should also have the right to compel the winding up of an insolvent or failing corporation, or a corporation which is manifestly unable, from any cause, to accomplish the object of its creation.

But the outside public, all who come in contact with a corporation in business matters, are also entitled to protection, or rather to the means of protecting themselves; and these means should be provided by the Legislature. When an individual on the outside is about to enter upon dealings with an incorporated association, whose liability is limited to the corporate assets, the individual is entitled to know from a trustworthy and reliable source the amount of those assets and the shape in which they exist, and also what are the existing corporate liabilities. This information can be best supplied by reports made at stated intervals to the State Corporation Commission, or to some bureau under its supervision, and these reports should be published or recorded in such convenient place or places as will give the public free access to them. The reports could be framed in such way as to give all needed information as to assets and liabilities, without entering into such specifications as would give undue publicity to the business relations of the reporting company with other parties. Every national bank is required to make such reports, and so is every insurance company. Justice and fair dealing require that these reports should be made, and, moreover, should be verified by the affidavits of at least a majority of the directors, as well as of the president and treasurer. And false swearing in the verification of the reports, whether intentional or the result of gross neglect, should meet with substantial punishment. It is within the knowledge of every man of any business experience that a number of men acting together will indulge in practices and take risks that no one of them acting alone could be persuaded

to do. And this is true of conduct alike in its moral and in its legal aspects. A divided responsibility is at once a temptation and a danger. This idea is embodied in the injunction of the Mosaic law—"Thou shalt not follow a multitude to do evil"—an injunction of equal force whether applied to the civil or religious life of a people.

Under the new Constitution, no foreign corporation can hereafter come into this State to do the business of a public service corporation, nor can any foreign corporation engage in private business or exercise any powers or privileges here that cannot be exercised by a domestic corporation of similar character; and every foreign corporation is to be subject to the rules and requirements applicable to domestic corporations when the same can be made applicable to the foreign corporation without discriminating against it. And the new Constitution further provides that the property of foreign corporations within this State shall be liable to attachment, the same as that of non-resident individuals; and there is a still further provision that nothing contained in that instrument shall be construed as restricting the power of the General Assembly to discriminate against foreign corporations whenever and in whatever respect it may deem wise or expedient.

These provisions are just as they should be. They are politic and wise.

The work of corporations in Virginia should, so far as practicable, be done by domestic corporations—by corporations formed under the constitution and laws of the State, and subject to them in all respects. It should be made convenient and easy for every one proposing to deal with a corporation to ascertain its condition; and business contracts with a corporation will be entered into with much less hesitation and with a more assured sense of security if its managing officials are residents of Virginia, or otherwise directly amenable to the laws of the State regulating the management of corporations and imposing penalties for their violation.

It should be the legislative policy of the State to encourage the formation of domestic corporations under general laws,

placing all the corporations of the same class upon a footing of exact equality. And the method of obtaining a charter or certificate of incorporation should be simple and inexpensive.

To impose a heavy tax on the charter or certificate of incorporation at the time it is obtained, is a mistake. A judge of the Court of Appeals of the State of New York, in a thoughtful address on the Evolution of the Corporation, made not long since, refers to the legislative policy of his State on this subject, and says that some years ago a very high incorporation tax was required, the result of which was to drive citizens of that State into neighboring States to obtain charters, under which the corporate business was transacted in New York just as if the charter had been obtained there. Thus the State in which the corporate business was done deprived itself of a very valuable source of taxation, and had to increase the taxes on land and other subjects to obtain the requisite revenue. The speaker continuing, said: "Still more recent and more liberal legislation upon the subject has created an increase of revenue, which will render the absolute wiping out of a general State tax a possibility of the near future. In other words, a large tax has driven corporations from the State and reduced our revenue, while a small or liberal tax has kept our corporations at home, thus reducing the general tax burden."

The plan outlined in our new Constitution for the taxation of corporate privileges and franchises upon the taking out of the charter or certificate and afterwards, appears to be both reasonable and wise.

But time does not suffice for further suggestions.

Perhaps I have already abused the privilege incident to my position on this occasion in trespassing so largely on your patience, but if consolation be needed, it may be found in the fact that you will be exempt from a repetition of this infliction on my part in the future. I will not have you at this disadvantage again.

Now, it is open to any of you to say that this address, if such it may be called, might as well have been made to an association of business men as to an association of lawyers. Admitting the

correctness of this observation, I might reply that in being made to this Association it has been made not only to lawyers, but to business men, or to men acquainted with business affairs and methods, as well. Every cultivated man is, or should be, more than his business; and such is usually found to be the case. Not only are lawyers, by the requirements of their profession, interested in the various departments of business in the communities in which they live, but they are also citizens of the State, and usually public spirited and patriotic citizens. What class in our beloved old State has striven more faithfully to meet all the requirements of citizenship, and to maintain and advance the public weal than the lawyers? Virginia, although comparatively poor, wears a crown of glory—a crown without a single stain. Henry Clay (a native born son of the Old Dominion), in one of his memorable speeches exclaimed: "A nation's glory is the sum of its splendid deeds"; and, judged by this standard, Virginia's glory is great and has been well earned. Her annals from Colonial times to the present day are full of splendid deeds, illustrated by the services and achievements of her many noble sons, amongst them being not only one, but a number, as to each of whom it may be said that his is

One of the few, the immortal names,
That were not born to die.

And amongst these noble sons, what a great proportion were lawyers. I shall not undertake to call their names; many of them are household words.

In no emergency or crisis in politics or war in which our proud old Commonwealth has been called on to take action has she ever proved unequal to the occasion. And, as a class, the lawyers have been always conspicuous in upholding her hands and in maintaining her honor and renown.

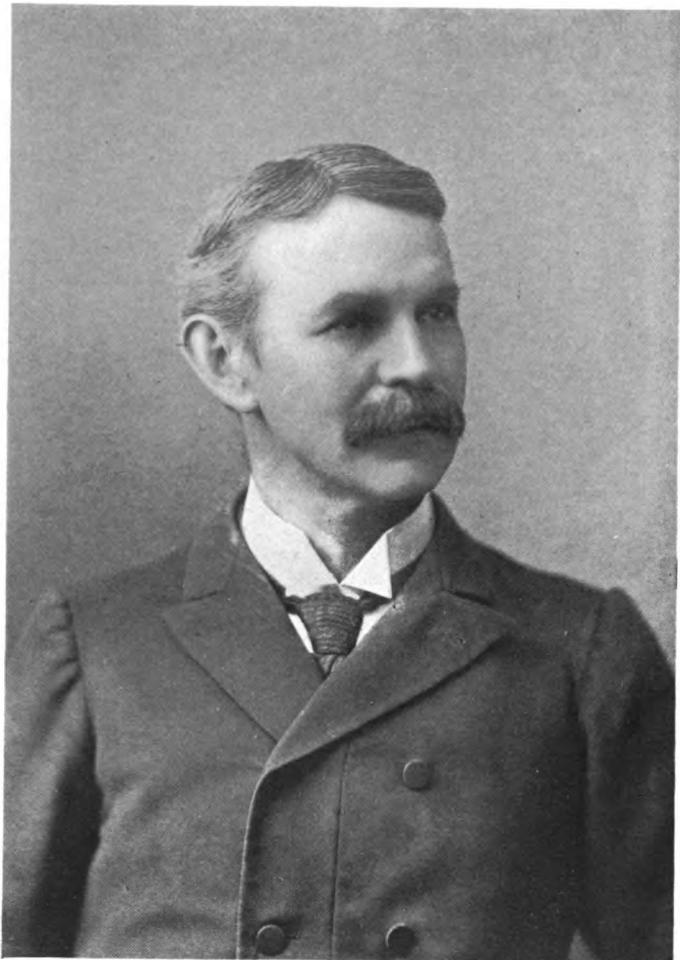
And now—in the work of recasting her legislation so as to adjust it to the new Constitution, which we would fain hope is to inaugurate a new era of prosperity for our State, and especially in the work of providing more reliable and efficient

agencies and instrumentalities for the development of the material interests of the State and for enabling her to make the most out of present industrial conditions and commercial methods—are the lawyers to be laggards? On the contrary, judging the future by the past, may they not be relied on to lead the new departure, both in the halls of legislation and outside of them? In order for us to lead the State into the highways of prosperity, modern industrial methods must be provided by law and must be put into active operation. Let our motto be: All for Virginia.

The Hebrew psalmist, in contemplating Jerusalem, the centre alike of the political and religious life of his people, gave utterance to the overflowing fullness of his heart when he cried out:

“If I forget thee, O Jerusalem, let my right hand forget her cunning.
If I do not remember thee, let my tongue cleave to the roof of my
mouth; if I prefer not Jerusalem above my chief joy.”

I am sure there is no son of our dear old mother Virginia here present who cannot apply these words to her with all the loving admiration and patriotic fervor which animated the psalmist when he spoke them of Jerusalem.



H. ST. GEORGE TUCKER

The Enforcement of Legal Rights by a Court of Equity

PAPER READ BY H. ST. GEORGE TUCKER
OF LEXINGTON, VA.

The rise of equitable principles, their incorporation into a separate and distinct system of jurisprudence alongside of and in many respects in hostility to the common law of England will always be recognized by the student of the law as one of the most instructive as well as interesting steps in the history of our great profession. When we remember the hold which the common law had upon the people, and their sacred regard for it as their protection against the encroachments of power, and the fact that in its foreign garb, ecclesiasticism, so repugnant to Saxon thought, had fastened itself on to the principles of equity, its steady growth, its marvelous expansion, and its final triumph in the Judicature Act of 1873 must be regarded as one of the most signal triumphs in the world's history. If my Lord Coke was willing to suffer imprisonment in the maintenance of the rights of the common law against the encroachment of equitable principles, we may well imagine that he would have welcomed death as but a slight oblation for his devotion to the cause of which he was so valiant a defender, in resisting the "enforcement of legal rights by a Court of Equity." It was indeed, hard enough for the advocates of the common law to accept without murmuring the rise of equitable principles in contravention of the common law. This was wormwood and gall; was resisted in its progress as a subversion of the law of the realm, and during every step of the struggle was met by the most deter-

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mined opposition. Nor did it matter that these principles were asserted as a separate system of jurisprudence; the common law lawyers were not blinded to the fact that it was in effect an appeal from the common law courts. If the judgment of a court of law could be forever enjoined, it was in effect the reversal of the judgment by a court of foreign jurisdiction. The march of equity was, however, steady, and the High Court of Chancery, backed by the king and the ecclesiastics, never lost any advantage which had been gained—but like those sustaining powers in mechanics which retain whatever they once have gained, it advanced with a step that never retrograded. Resistance was powerless, judgments were annulled, the power of the chancellor was increasing against protest, and the final outcome of the struggle was assured in the recognition and assertion of equitable principles by a court of equity as a separate and distinct system of jurisprudence. Power once acquired is seldom lost. If a court of equity could uproot the basic foundation of the common law, though protesting with deep humility at every step, that it was merely following the law, the next step was easy. Could the courts of this new system, brought into being for enforcing only equitable principles, advance a step and enlarge its domain by enforcing *legal rights*.

Granted that a court of equity could enforce equitable principles, would not this be the limit of its ambition? Would it, while protesting its innocence of invading the functions of the common law courts, take upon itself, without disclaimer, the adjudication of legal rights? How could a court established under a system for the enforcement of the peculiar principles of that system, assume jurisdiction of other principles arising under a different system? and yet so relentless and irresistible has been the march of equity that the right of a court of equity having once properly taken jurisdiction of a cause for the determination of a question properly belonging to that system of jurisprudence to determine legal rights in order to do complete justice between the parties is now fully recognized, and has been for years. Indeed, it is a principle so elementary and

so well recognized that I pause only for a moment to refer to one or two well established cases in our courts. Perhaps one of the best recognized cases in our courts is that of *Nagle v. Newton*, 22 Gratt., 814, where the court holds that the case being a proper one for the jurisdiction of equity may, in addition to the determination of the equitable principles involved, decree compensation for damages to one of the parties to the contract which was asked to be specifically enforced. The authorities are reviewed by Judge Christian in that case, and the jurisdiction sanctioned in the language of the court as follows: "Why should the cause be divided into two suits—a part of the controversy to be adjudicated in a court of equity, and a part in a court of law? Why should two distinct and independent tribunals be invoked to dispose of a cause between the same parties, where their respective claims are so connected as to be inseparable? Why call upon a court of law to aid the court of equity, which has the undoubted original jurisdiction of the subject matter and of the parties, and is provided with all the machinery necessary to arrive at the same result, and in the same mode, if need be (trial by jury) which could be attained in a court of law? We cannot perceive the necessity or the propriety of such a practice. Nor can we find any authority among the modern decisions to require it." This case, and many that might be cited as following it, and adopting its principles, establishes the principle that where a court of chancery rightfully has jurisdiction of the cause, it will hold it to do complete justice to all of the parties involved even if thereby the adjudication of legal rights are involved. The soundness of this principle has now passed beyond the realm of controversy. And while, if asserted in the days of *in re Shylock*, or of *Langford v. Bernard*, Tothill 134 (1598), would have been resisted with all the prejudice of the common law lawyers of that day, it is perhaps to-day as well recognized as any principle in equity jurisprudence.

The phase of the question to which I desire specially to direct attention is not whether a court of equity having jurisdiction of a cause may enforce legal rights arising in the progress of the

cause between the parties, but whether a court of equity, which, as the final decision of the cause shows, never had jurisdiction of the original cause, may yet hold the case for the adjudication of legal rights which it clearly could not have enforced if the bill had been filed for their enforcement. In the first case stated, the adjustment of equitable principles is the foundation of the suit, the enforcement of legal rights which might incidentally arise in the progress of the cause is merely ancillary to the main contention. The enforcement of equitable principles was the primary; that of legal rights an incident of the suit. The one, original, primary; the other, ancillary and secondary. The one, the cause of the suit; the other, an incident. The one, the foundation; the other, an incident of the superstructure. But the question to which attention is now directed is more troublesome. Admitting that being once properly within the jurisdiction of a court of equity, that that court will retain the cause to do complete justice, does it follow that complete justice may be done the parties in the adjudication of legal rights on the basis of a bill, which, on its face, shows a want of equity—or where in the final determination of the cause it is shown that there was actually no equity for which the jurisdiction of the court could have been properly invoked.

The first branch of this subject may be quickly disposed of. If the bill on its face is demurrable for want of equity, I think it will not be questioned that if a demurrer is interposed, the cause cannot be retained for the determination of any rights, legal or equitable. Without an equity in the bill it can be retained for no purpose. Its only standing in court must be on the equity on its face. If that is lacking, the bill must fail for all purposes. If, however, the bill on its face sets forth facts which clearly give to the court jurisdiction of the cause, and such bill is not open to demurrer because it states a good cause of action, but in the development of the cause, in the filing of the answer, the pleas of the defendant, the production of testimony, it is shown that the cause as set forth in the bill is not made out,

and, therefore, there was never any equity giving the court jurisdiction, though the bill itself, on its face, averred a good cause of action, can such a bill be retained for the determination of legal rights? This question is more difficult: What is it that gives to a court of equity jurisdiction of a cause? or in other words, how must a chancellor determine whether he has jurisdiction when the bill on its face is proper? Must he, before he can recognize his jurisdiction, demand the proof of the averments of the bill? Must a bill to give jurisdiction present the proof along with the averments of the bill contrary to the first principles of equity pleading? Must the orderly processes of the court which require first the averments of facts, then the denial, then the proof, be set aside by the requirement that in order to jurisdiction, averments must be sustained by, and coupled with proof with the bill? If in the hot contest of a suit in equity, the result of the cause is finally determined in favor of the defendant, have all the proceedings leading up to that result been *coram non judice*? Has a court during all of those stages been determining a cause of which it has no jurisdiction because it finally turns out that the plaintiff's contention cannot be maintained? Is it the bill, or the result of the litigation that determines the question of jurisdiction? To hold otherwise than that the *bill itself* must be the determining factor would result in interminable complication, even though the result is reached by a seeming usurpation of jurisdiction; and while the question has been much mooted, and some courts inclined to doubt it, we think we are safe in maintaining that our own courts as well as those of Massachusetts, New York and other States, sustain this doctrine.

In the case of Ahl's Appeal, 129 Pa., 63; Atlantic Reporter, 18, p. 477, the Pennsylvania Court holds that where the bill makes a good case against each of the defendants, and proofs are had, and the plaintiff fails to sustain the averments of the bill against either of the defendants, the bill must be dismissed and cannot be retained for the prosecution of the cause: distinguishing the case from that of Slemmer's Appeal, 58 Pa.,

155, where, under a prayer for general relief, relief was granted, though not specially asked for in the bill; and maintaining that where the bill shows no right to relief in equity the case has nothing on which to stand and must fall. In Ahl's Appeal the bill alleged a partnership with the defendant, prayed for a dissolution and account. On a reference, the master found no partnership existing, and, therefore, there could be no accounting, but it was discovered during the progress of the evidence that the defendant was indebted to the plaintiff in a large sum for loans and advances, and the lower court decreed payment of this on behalf of the plaintiff. Its action was the subject of review in the case and was reversed.

In the case of *Case vs. Minot*, 158 Mass., 577; 22 L. R. A., 536; the doctrine laid down in *Milkman vs. Ordway*, 106 Mass., 232, and the *Woodbury Company vs. Marblehead Water Company*, 145 Mass., 509, was said to be this: "That where a plaintiff in good faith, brings a suit seeking equitable relief, supposing and having reason to suppose himself entitled to such equitable relief, even though at the time when the bill was brought he had no right to relief purely equitable, yet the court will afford relief by awarding compensation." "*A fortiori*, if the reason for denying the purely equitable relief occurs pending the suit." In this case, the bill was filed for an injunction by certain lessees against their lessors or their agents, for obstructing light and air on the premises by building a chimney, and pending the litigation, the complainant's lease expired, and the court retained the bill to assess damages for the complainant.

The view of the Massachusetts court seems to follow the case of *Phillips vs. Thompson*, 1 Johnson Chancery, 132, decided by Chancellor Kent—a case in which the bill was filed for the specific performance of a parol contract, alleging a part performance of the contract to take the case out of the statute of frauds; there was a failure by the plaintiff in making out the existence of the contract as alleged, and the question to be determined was whether the bill should be dismissed, or whether

injury sustained by the plaintiff should be decreed against the defendant by way of damages. The chancellor retained the bill and awarded an issue of *quantum damnificatus* to assess the damages which the plaintiff had sustained. This seems to be in accordance with the case of *Nagle vs. Newton*, 22 Gratt. 814, *supra*; *Gordonsville Milling Company vs. Jones* (Tenn.), 57 S. W., 630; 21 N. E., 95.

These cases are sufficient to show the diversity of view on this subject of the courts of other States, and are in no wise to be regarded as a full statement of all of the cases that might be cited on the subject, but merely as samples of those decisions.

Coming on to our own court, we find that a dictum in the case of *Jones vs. Bradshaw*, 16 Gratt., 355, has led to some erroneous conclusions as to the view of our court on this subject. In this case, the bill was filed asserting jurisdiction on the ground of discovery sought from the defendant. During the progress of the cause it was found, as to certain material facts, of which discovery was desired, the complainant had full proof, and as to others, they were merely pretences. Judge Robertson, delivering the opinion of the court, uses this language: "Where the bill alleges proper matter for the jurisdiction of a court of equity so that a demurrer will not lie, if it appears on the hearing that the allegations are false, and such matter does not in fact exist, the result must be the same as if it had not been alleged and the bill should be dismissed for want of jurisdiction." This case is distinguished in *Walters vs. Farmers' Bank of Virginia*, 76 Va., 12. A case of great interest to the profession, and one which has been much criticised. A bill was filed against Mrs. Neal, a married woman, as the maker of a negotiable note, and her trustee, and Walters, her endorser, alleging that she was a married woman having separate estate, and praying that the separate estate might be subjected to pay it, or that the same might be paid by her or by her endorser. It turned out upon investigation, that Mrs. Neal, at the time of the filing of the bill, was the owner of no separate estate, and the question, therefore, arose whether the court, which could

alone take jurisdiction of the cause on the allegation of her ownership of separate estate could retain it to enforce what was clearly a legal, and not an equitable, right of the complainant against Walters. This case presents the question plainly. The fact averred which gave the court jurisdiction is found to have been not a fact, and the legal right sought to be enforced is not against the same defendant against whom equitable rights were averred in the bill. The case would have been stronger if, after it was shown Mrs. Neal was possessed of no equitable estate, some legal right (were it possible) was discovered by the complainant against her; but here the jurisdictional fact was averred as to one defendant, and the retaining fact or the legal right to be enforced, was averred as to another defendant, Walters her endorsee.

"The principle," says Judge Staples, in delivering the opinion of the court, "is almost universal that jurisdiction of the subject matter does not depend upon the ultimate existence of a good cause of action in the particular case—being once properly and lawfully acquired, no subsequent fact can defeat that jurisdiction." And distinguishing this case from *Jones vs. Bradshaw*, supra, the judge further says: "The rule can have no application to a plaintiff who in the bona fide assertion of an equitable claim invokes the jurisdiction of a court of equity, but from some cause developed in the course of the investigation fails in establishing his title to the specific relief claimed in his bill. In every instance the court must determine upon the facts and circumstances of the particular case—whether it is better to leave the parties to their legal rights and remedies, or to go on and end the litigation by giving complete and final relief in the cause." If the court which decided *Walters vs. The Bank*, supra, had had the case of *Jones vs. Bradshaw* before it for decision, the decision would have been the same, for in the latter case the bill was clearly an attempted fraud on the jurisdiction of the court.

But the case of *Walters vs. The Bank* clearly overrules the dictum of Judge Robertson above quoted, for the point set

forth in the above passage from Judge Robertson's opinion was the exact question raised in *Walters vs. The Bank*, and was necessary to its decision.

The case of *Stearns vs. Beckam*, 31 Gratt., 379, and the elaborate opinion of Judge Burks, may be cited as sustaining analogously the principles of *Walters vs. The Bank*, that though the court may refuse to specifically execute a contract for the sale of land at the instance of the vendees and for the reason that the proofs have disclosed a lack of equity, it will decree compensation. "Where the bill," says Judge Burks, "is framed with a double aspect and contains a prayer for alternative relief, if the court is unable to execute the contract, it will go on to decree the repayment of the purchase money." * * * "In Virginia this doctrine may be regarded as now firmly settled." That failure of proof of the averments of a bill does not justify the dismissal of the bill, or justify the conclusion, therefore, that the court has no jurisdiction where the bill itself shows an equity, is well illustrated by the case of *McComas vs. Easley*, 21 Gratt., 23, where the purchaser of real estate filed his bill for the specific performance of a parol contract for the sale of the land, the defendant answered the bill alleging a different contract, and the evidence sustained the answer, and the court held that as the complainant had failed to prove his contract the bill might be dismissed, or he might elect to have the contract as proven by the defendant enforced, or have it rescinded. It is true that being a bill for the specific execution of a contract, it was an application to the sound discretion of the court, a judicial discretion, not as has been said to be exercised in an arbitrary and capricious way, but to be exercised and controlled by the established doctrines and settled principles of equity. But the point we are discussing is none the less plain because the question of the specific execution of a contract is controlled by a judicial discretion. Is the jurisdictional question less plain in this case on that account? A good cause of action is alleged in the bill, it is denied in the answer, and the proofs show that the averments of the bill have not been sustained—if so, has the court jurisdiction of the cause? Is

jurisdiction to be sustained by the averments of the bill, or by the proof of the facts so averred? The facts so averred are proven to be false and the jurisdiction in the case can only be sustained, therefore, by the averments and the averments alone, of the bill.

We conclude, therefore, that the averments of the bill are alone regarded as sufficient, to maintain the jurisdiction of the court, provided the complainant in good faith invokes its jurisdiction. If, however, the chancellor finds, or has good ground to believe, that his court is being used as a fraud upon the common law courts, or for the purpose of depriving the litigant of his legal rights, such jurisdiction must and will be denied. Whether this conclusion is maintainable upon the strict and rigid rules of legal logic may be open for discussion, but it at least marks the resistless march of the great system of equity jurisprudence, which, discarding legal technicalities and discountenancing the multiplicity of suits and the law's delays and reaching after, though it may be rarely attaining, the perfect justice, whose seat is the bosom of God, will hold the parties in its grasp whenever impleaded until the real right of the cause, whether equitable or legal, is finally and completely adjusted.



T. S. GARNETT

The Impeachment and Trial of Andrew Johnson

PAPER READ BY THEODORE S. GARNETT
OF NORFOLK, VA.

"The trial of President Johnson is the most memorable attempt made by any English-speaking people to depose a sovereign ruler in strict accordance with all the forms of law. The order, dignity and solemnity which marked the proceedings may therefore be recalled with pride by every American citizen."—*J. G. Blaine*: "Twenty Years in Congress," Vol. II., p. 381.

The author of this assertion, as to the truth of which there may well be two opinions, adds:

"It will be studied as a precedent, or as a warning, by the citizens of the Great Republic during the centuries through which God grant, it may pass with increasing prosperity and renown."

Another writer says:

"It must be presumed that all the established forms of procedure were adhered to and that the accused had a fair trial."

An entire generation has passed away since the trial, and the accused, as well as his accusers, have been well-nigh forgotten. Indeed, I doubt whether our elder brethren of the Virginia Bar remember or care to recall the excitements of that period, while I am sure our juniors have practically ignored them.

It may, therefore, require an apology—which I humbly offer, in advance—for presuming to revive your acquaintance with

this memorable case, from which I confess I may be unable to extract anything of interest or instruction.

The literature of the Johnson case, strictly speaking, may not be light summer reading, but it cannot be classed among the weightier matters of the law. And yet the case has in it all the elements of a drama, approaching even to the tragic in its attempted destruction of the Executive office at the will of Congressional tyranny.

Let us examine it in its *origin*, its *progress* and its *results*.

By birth a native of North Carolina, by adoption a citizen of Tennessee, Andrew Johnson has illustrated in his remarkable career the strange vicissitudes which may mark the progress and vary the destiny of even the poorest American boy. At twenty years of age, an alderman; at twenty-two, a mayor, and thence in rapid promotion through his State Legislature and the Federal Congress to the Vice-Presidency of the United States.

The death of Lincoln, by the hand of an insane assassin, on the 14th of April, 1865, cast upon Johnson duties so important and responsible that his first exclamation, in that shortest of all inaugurations ever delivered by a President, was an honest declaration of his incompetency to perform them.

Without having spent a day in school, he enjoyed the unique distinction of having been educated by his wife—a post-nuptial and post-graduate course which many of us perhaps unconsciously, but none the less submissively, acknowledge and admire. To this in large measure may be due the supreme self-control of Mr. Johnson in his struggle with Congress, conscious as he always was that he would have the last word.

Upon the accession of the Vice-President to the office of President, the ghost of a temporary dictatorship was laid, and politicians of every stamp seemed to rally to Johnson's support. For the first few weeks he moved cautiously, knowing that he lacked the confidence of the leaders of the dominant and radical element in Congress. The extremists of this set were Thaddeus Stevens, Charles Sumner, Benjamin F. Wade and Henry

Winter Davis, whose envenomed hatred of all Southern people had dethroned reason and carried their red and black Republicanism to the height of madness and excess.

Long before a commission of lunacy could be issued against these conspirators, Johnson had publicly declared "that no State had been or could be out of the Union," and that "a State as a State could not be guilty of treason."

But, as a sop to Cerberus, in his first message to Congress, he had affirmed, as to individuals, "It is manifest that treason, most flagrant in character, has been committed," and "that treason should be punished and the offense made infamous."

But soon afterwards he urged "general amnesty and mutual conciliation," for which to some extent he had paved the way by a previous proclamation, indicating a change of heart as sudden and remarkable as the conversion of Saul of Tarsus on the way to Damascus.

It is now conceded that the plan of Reconstruction by the Executive Department which Johnson attempted to enforce was first conceived and adopted by Lincoln. His successor was honestly striving to follow Lincoln in his wise and humane endeavor to restore peace and union. On the other hand, it is no longer denied that the Congressional plan was formulated under the baneful influence of Stevens, Sumner, Wade, Davis and other revolutionists, with motives as revengeful, and cruelty as savage and bloodthirsty, as ever actuated Robespierre, Danton or Marat.

The administration of the Freedman's Bureau under Stanton, as Secretary of War, was largely the cause of his quarrel with the President, and of his indecent hostility to Mr. Johnson.

Three other members of the Cabinet, Speed, Dennison and Harlan, showed their disaffection and very properly resigned. It remained for Edwin M. Stanton to outrage all sense of propriety and insist upon retaining the portfolio of war as an adviser of the President against his will.

It will be remembered that the first attempt to impeach the President occurred in 1866, immediately upon his veto of the

bill to establish negro suffrage in the District of Columbia. This veto was a strong paper, and, notwithstanding the passage of the bill over the President's objections, it had the effect of preventing his impeachment at that early date.

Indeed, it is clear to every impartial mind that in nearly every one of his veto messages the President had the better of the argument with Congress. His messages returning to them the Freedman's Bureau Bill, the Civil Rights Bill and the Original and Supplemental Reconstruction Bills, all evince a vigor of expression and a power and correctness of reasoning as well as honest and true interpretation of the Constitution, which, but for the blind rage of his opponents would have been unanswerable.

Instead of this, Congress took up as its own the rebellion of Secretary Stanton against his chief, passed an act depriving the President of his control of the army, and followed it up by another act which tied his hands behind him in the fight with his Cabinet. This was the Tenure-of-Office Act, passed March 2, 1867, the terms of which will be discussed below. The vetoes of these two bills are described by Professor Burgess, of Columbia University, in his recent work on "Reconstruction and the Constitution" thus: "To the publicist and historian of this day they are masterpieces of political logic, constitutional interpretation and official style."

In August, 1867, the situation had become so unbearable that President Johnson suspended Secretary Stanton from office and appointed General Grant Secretary of War *ad interim*.

The Fortieth Congress re-assembled in December of that year, and had to listen to the chastisement administered to them by the President in his message of December 3, 1867. The Military Appropriation Bill had been passed, usurping the President's authority. He had allowed it to become a law simply because without it the army could not be supported—not because he acquiesced in the usurpation. The Reconstruc-

tion Bill, as finally adopted, with all its glaring iniquities, had been passed over his veto, and the author above quoted, thus describes it:

"There is no question now that Congress did a monstrous thing and committed a great political error, if not a sin, in the creation of the new electorate. It was a great wrong to civilization to put the white race of the South under the domination of the negro race. The claim that there is nothing in the color of the skin, from the point of view of political ethics, is a great sophism. To put such a race of men in possession of a 'State' government in a system of Federal government * * * is simply to establish barbarism in power over civilization; * * * nor is the welfare of the whole land, or any part of it, to be promoted by the subjection of the white race to the black race in politics and government."

These are the doctrines, long neglected, but now instilled into the pupils of the great New York Law School by Professor Burgess; but that learned teacher has so mingled error with truth in another sentence as to break the force of his otherwise fair statement. Having condemned the establishment of "barbarism in power over civilization," he says:

"The supposed disloyalty, or even the actual disloyalty, of the white population will not justify this. It will justify the indefinite withholding of the 'State' form of local government. It will justify the throwing a 'State' of the Union back under the form of a Territory of the Union."

Upon what authority he bases these *dicta* he fails to state, and it is too late to reverse the Supreme Court's judgment in *Texas vs. White*.

The origin of the Impeachment Trial, as we have now viewed it, was the antagonism between Congress and the President upon the question of reconstruction, and this was intensified by the quarrel between Secretary Stanton and Mr. Johnson, leading up to the catastrophe and the actual trial before the Senate.

In any view we may take of it, it is not to be denied that Johnson's attitude was the heroic stand of one man against a

multitude—a single individual standing alone on the rock of the Constitution defending the helpless and oppressed communities of the South which he viewed as “States,” against the combined attacks of millions of fanatics led by madmen as conspirators to destroy the last vestige of civilization in their “conquered territories.”

THE TRIAL AND ITS INCIDENTS.

The Senate having refused to consent to the suspension of Secretary Stanton, General Grant quickly abandoned the War Office, and instead of resigning it into the hands of the President, from whom he had accepted it, left it to be picked up by Stanton, who promptly resumed it and proceeded to fortify himself.

On the 21st of February, 1868, Johnson addressed an order to Stanton, dismissing him from the War Office, and appointed General Lorenzo Thomas Secretary *ad interim*. Stanton refused to surrender, and caused the arrest of General Thomas under the Tenure-of-Office Act. This was exactly what the President desired, and Stanton had fallen into the trap—a decision of the whole controversy by the courts. But the astuteness of Stanton’s counsel, assured that impeachment would follow, prevented this by the withdrawal of the complaint and the release of General Thomas. The President’s removal of Stanton enraged Congress to that degree that it was short work to pass the resolution of impeachment in the House of Representatives by a vote of 126 to 47—a strict party vote.

The managers on the part of the House to conduct the prosecution were promptly chosen—Messrs. Bingham, Boutwell, Wilson, Butler, Williams, Logan and Stevens. Of all this illustrious septemvirate, only one remains to grieve over their lost cause.

The articles of impeachment, dated March 2, 1868, stripped of all unnecessary verbiage, and reduced by analysis to their

last absurdity, seem lamentably weak and inconsequential. They are:

"1. That he violated the Tenure-of-Office Act in issuing an order deposing Stanton from the office of Secretary of War and appointing Thomas Secretary *ad interim*."

"2. That he violated the Anti-Conspiracy Act of July 31, 1861, in conspiring with Thomas to expel Stanton by force from the War Office, and to seize upon the property and papers of the United States in the War Office, and to unlawfully disburse the money appropriated for the military service and the Department of War."

"3. That he violated the act of March 2, 1867, which, among other things, directed that the military orders of the President and Secretary of War should be issued through the General of the Army, by attempting to induce General Emory, the commander of the troops around Washington, to disregard the law and take his orders immediately from the President."

"And 4th. That he committed high misdemeanors in his speeches denouncing the Thirty-ninth Congress and declaring it to be a Congress of only a part of the States."

The President entered his appearance by his counsel—Henry Stanbery, Benjamin R. Curtis, Jeremiah S. Black, William M. Evarts and Thomas A. R. Nelson. Their motion, made March 13th, asked for forty days to prepare the President's answer. This was denied, and it was ordered that the answer be filed on the 23d of March, which was accordingly done. Between those dates it appears that Judge Black retired from the President's case, for no assignable reason, and not until the close of the case was it discovered that the reason was far more creditable to the President than to the counsel who forsook him at this critical moment. Hon. William E. Groesbeck took his place.

The answer, filed on the 23d, is a fine presentation of the case, and though highly argumentative, makes emphatic denial of any and every violation of the Constitution and the laws. It sets up every proper defense to the charge of violating the

Tenure-of-Office Act, and asserts the President's innocence in every view of it, no matter whether the case of Stanton fell within or without the act.

In answer to the charge that he had abused and vilified Congress in his public speeches, and had asserted that they were "a Congress of only a part of the States," the explanation is clearly worse than the offense, and this part of the answer was calculated to incense the Senate to the verge of madness. It came near defeating the case, but it is the most admirable part of the defense. It admitted the allegation that the Congress was only of part of the States, but insisted that he had said this repeatedly in his several messages, and he again, as he had always done, "protested against the unauthorized exclusion therefrom of the eleven States of the South." And in forcible style, the answer declares not only his constitutional right as President of the United States to communicate his views and opinions in regard to the legislation of Congress, as he had frequently done, but he refused to waive or disparage his right to the exercise of that freedom of speech which belonged to him as a citizen of the United States.

The Managers filed their replication on the next day, and, notwithstanding the motion of the President's counsel for thirty days to prepare their defense, the Senate denied the motion and ruled them into trial on the 30th of March.

An important preliminary question arose while the Senate was being organized as a court to try the impeachment. When the name of Senator Wade was reached on the call of the Senate to take the oath, it was objected by Senator Hendricks that Mr. Wade should not be allowed to sit on the trial, for the reason that he would thus be made a judge in his own case, the succession to the Presidency being in him, and his single vote, if cast for himself, might make him President of the United States. It was ably debated, but the motion was withdrawn by Senator Hendricks and no vote was taken thereon, and notwithstanding the evident impropriety, Senator Wade insisted on being sworn to try a case the result of which would be to place him in the President's seat. The thickness of his

skin was only equalled by the obliquity of his conscience, neither of which could be penetrated by the ringing rebuke of Senator Bayard, who concluded his argument against him thus:

"He must, of course, decide that question for himself in the first instance; but for my own part, I can only say that if I stood in the same position the wealth of worlds could not tempt me for an instant to think of sitting as a judge in a case where my interest were so directly personally involved."

With the court thus organized for conviction, the result did not appear in doubt, and the opening speech for the Managers was made by Benjamin F. Butler with an easy confidence. It has been aptly characterized by a Northern critic as "a fierce, not to say brutal, attack of Mr. Butler on the President;" to which we may add that it was in keeping with the personal peculiarities which had gained for him kinship with the beasts that perish.

It is difficult to imagine that doughty warrior as ever having experienced the feeling of modest diffidence, but he confesses to nothing short of stage-fright as he opened the case. In that gossip's manual called "Butler's Book," he says:

"When I entered the Senate chamber from the Vice-President's room, the scene was almost appalling to one who had to address such an audience. The floor of the Senate chamber was filled, because the House attended in Committee of the Whole; the galleries were also crowded with those interested in the case, and the ladies' gallery shone resplendently with bright, beautiful women in the most gorgeous apparel."

And he adds:

"I came as near running away then as I ever did on any occasion of my life."

(He forgot for the moment his experiences at Drewry's Bluff, Deep Bottom and City Point.)

He soon recovered his composure, and then he says he handed to one of his colleagues a written paper, asking him to offer it in evidence, but observing that he was trembling violently, he

came to his relief, and adds: "I determined to try this case as I would *a horse case*, and I knew I could do that." "And thus," says General Butler, "I became the leading figure of the impeachment, for better or for worse."

Then followed the testimony of more than forty witnesses, with vast volumes of documentary evidence, making up a record, with the argument of counsel, in size and extent equivalent to five full volumes of Virginia Reports. The trial consumed eighty-two days, and the statement of Mr. Blaine, first above quoted, "that it may be recalled with pride by every American citizen," is best answered by that statesman's own comment. "No impartial reader," he says, "can examine the record of the pleadings and argument of the managers who appeared on behalf of the House without feeling that the President was impeached for one series of misdemeanors and tried for another series."

After the testimony was all in, and the argument of counsel on either side had fairly commenced, it was soon perceived that the managers were forced to rely for conviction on the single charge that the President had violated the Tenure-of-Office Act, passed March 2, 1867, the first section whereof reads as follows:

"Be it enacted, &c., That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who may hereafter be appointed to any such office and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.

"Provided, that the Secretaries of State, of the Treasury, of War, of the Navy and of the Interior, the Postmaster-General and the Attorney-General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the consent of the Senate."

The charge was that the President had violated this act by the removal of the Secretary of War on the 21st of February,

1868, after the refusal of the Senate to concur in his previous suspension. Congress declared further that this removal was not within the power of the Executive.

Upon this crucial question arose the grave differences of opinion, not only between the great lawyers on both sides of the case, but also among the very able Senators who sat in judgment upon it. Mr. Fessenden, who has been styled "the very ablest lawyer sitting in the Senate since Mr. Webster," believed and declared "upon his oath and his honor—an oath that was sacred and an honor that was stainless—that the President had a lawful and constitutional right to remove Mr. Stanton at the time and in the manner he did." With this judgment Senators Grimes and Trumbull fully concurred. And the reasons upon which they based it were either that the prohibition of the Tenure-of-Office Act did not apply to Mr. Stanton's case, or that the act itself was clearly unconstitutional.

But to proceed with the trial, and especially with our inquiry: Did Andrew Johnson have a fair trial? Bear in mind that it was a purely political trial, and the Senate was composed of eight Democrats to forty-six Republicans.

Judge Curtis, who opened the case for the President, in a masterly defense, maintained that the accused was entitled to a judicial interpretation of the Tenure-of-Office Act, and the following offer was made in that behalf:

"We offer to prove that the President, at a meeting of the Cabinet while the bill was before him for his approval, laid the Tenure-of-Office Act before the Cabinet for their consideration and advice respecting his approval of the bill, and thereupon the members of the Cabinet then present gave their advice to the President, that the bill was unconstitutional and should be returned to Congress with his objections, and that the duty of preparing the message setting forth the objections to the constitutionality of the bill was devolved upon Mr. Seward and Mr. Stanton."

The managers objected to the admission of this evidence, and upon full argument the Chief Justice decided: "That the

testimony is admissible for the purpose of showing the intent with which the President has acted in this transaction." But upon the call for a yea and nay vote, "the decision of the Chief Justice was overruled, 29 to 20, and the testimony excluded."

Again the President's counsel offered to prove:

"That at the meeting of the Cabinet at which Mr. Stanton was present, held while the Tenure-of-Office Act was before the President for his approval, the advice of the Cabinet in regard to the same was asked by the President and given by the Cabinet, and thereupon the question whether Mr. Stanton and the other Secretaries who had received their appointment from Mr. Lincoln were within the restrictions upon the President's power of removal from office created by said Act, was considered, and the opinion was expressed that the Secretaries appointed by Mr. Lincoln were not within such restrictions."

The Chief Justice decided that the testimony is proper, but upon a yea and nay vote, 26 to 22, the Chief Justice was again overruled and the testimony rejected.

And again it was "offered to prove that the President and Cabinet had deemed it advisable that upon some proper case a judicial determination of the constitutionality of the act should be obtained." The Chief Justice, apparently tired of his decisions being overruled, submitted the question at once to the Senate. By a vote of 30 to 19 the testimony was declared to be inadmissible.

Could any further proof be needed that the majority of the "high court of impeachment" had determined to deny justice, ignore authority and despise law?

Stanton had approved the veto message declaring the Tenure-of-Office Act unconstitutional. He had advised the President that it did not prevent his own removal, and finally he had assented to the wish of the President and other Secretaries to have a judicial interpretation of the act. The Chief Justice had declared proof of the facts to be material and relevant to the President's case. And yet the Senate "must be presumed to

have granted the accused a fair trial," though it deliberately refused to hear the evidence which established a complete defense.

The case was argued thus: Mr. Butler for the managers, Mr. Curtis for the President, then Manager Logan, Manager Boutwell, Mr. Nelson for the President, Mr. Groesbeck for the President, Manager Stevens, Manager Williams, Mr. Evarts for the President, Mr. Stanbery for the President, Manager Bingham. Twenty-nine Senators filed written opinions.

On the part of the managers, every species of invective was used and every conceivable appeal to the passions of angry judges was made, with threats of vengeance against any recreant Republican who should dare to vote for acquittal. The President's counsel had all they could do to avoid a general conflagration as they attempted to allay the fires of political hatred. On the whole, they kept their temper admirably, and conducted their case with calmness and wise moderation.

The President could not have been better guided in the selection of counsel, and it would be a pleasure to array against the able but intemperate speeches of the prosecution the calm and dispassionate replies for the defense. But time is wanting.

It is difficult to choose between the speeches of counsel for the President. It does not appear in all the twenty-nine opinions filed by Senators what particular matters of law were decisive, some arguing for one view and some for another; some acquitting on one or more articles and convicting on others.

Without attempting any comparison between the speeches, it is no injustice to any to say that we take especial pleasure in that delivered by Mr. Evarts. He is so well remembered by many now present and his departure so deplored that it is only a pleasant reminder to say that his forceful periods, which from their extreme length have been styled "sentences for life," make his argument worthy of notice.

The case, heavy as the record appears, was not without its humorous episodes. Manager Butler had evinced an intensity

of feeling which led him into unusual excesses of declamatory violence; in fact, he had roared so like a bull of Bashan that the very dome of the rotunda was dangerously near destruction—a style of oratory which is rapidly disappearing with the fast forming impression that courts and juries are not to be won by the exercise of the lungs alone.

Mr. Evarts, in remembrance of General Butler's powder boat at Fort Fisher, paid his respects to that gentleman's mode of warfare as follows:

"It has usually been supposed that upon actual trials involving serious consequences forensic discussion was the true method of dealing with the subject, and we lawyers appearing for the President being, as Manager Boutwell has been polite enough to say, 'attorneys whose practice of the law has sharpened, but not enlarged, their intellects,' have confined ourselves to that method of forensic discussion.

"But we have learned here that there is another method of forensic controversy, which may be called the method of 'concussion.' I understand the method of 'concussion' to be to make a violent, noisy and explosive demonstration in the vicinity of the object of attack, whereas the method of discussion is to penetrate the position and, if successful, to capture it.

"The Chinese method of warfare is the method of 'concussion,' and consists of a great braying of trumpets, sounding of gongs, shouts and shrieks in the neighborhood of the opposing force, which rolled away, and the air clear and calm again, the effect is to be watched for. But it has been reserved for us in our modern warfare, as illustrated during the rebellion, to present a more singular and notable instance of the method of warfare by 'concussion' than has ever been known before. A fort impregnable by the method of discussion—that is, penetrating and capturing it—has been on the largest scale attempted by the method of 'concussion,' and some two hundred and fifty tons of gunpowder in a hulk moored near the stone walls of the fort has been made the means and occasion of this vast experiment. Unsatisfied with that trial and its results,

the honorable manager who opened this case (Mr. Butler) seems to have repeated the experiment in the vicinity of the Senate. (Laughter.)

"The air was filled with epithets, the dome shook with invective. Wretchedness and misery and suffering and blood, not included within the record, were made the means of this explosive mixture. And here we are surviving the 'concussion,' and after all reduced to the humble and homely method of discussion which belongs to 'attorneys whose intellects have been sharpened, but not enlarged, by the practice of the law.'" (Laughter.)

Mr. Boutwell, in his argument, attempting to describe the punishment which he thought most appropriate for the President, had drawn the following vivid picture:

"Travellers and astronomers inform us that in the Southern heavens, near the Southern Cross, there is a vast space, which the uneducated call the hole in the sky, where the eye of man, with the aid of the powers of the telescope, has been unable to discover nebulae, or asteroid, or comet, or planet, or star, or sun. In that dreary, cold, dark region of space, which is only known to be less than infinite by the evidences of creation elsewhere, the Great Author of celestial mechanism has left the chaos which was in the beginning. If this earth were capable of the sentiments and emotions of justice and virtue, which in human mortal beings are the evidences and the pledge of our divine origin and immortal destiny, it would heave and throe, with the energy of the elemental forces of nature, and project this enemy of two races of men into that vast region, there forever to exist in a solitude eternal as life, or as the absence of life, emblematical of, if not really, that 'outer darkness' of which the Saviour of man spoke in warning to those who are the enemies of themselves, of their race and of their God."

To which Mr. Evarts made the following reply:

"I may as conveniently at this point of the argument as at any other pay some attention to the astronomical punishment which the learned and honorable manager (Mr. Boutwell) thinks should be applied to this novel case of impeachment of the President. Cicero, I think it is, who says that a lawyer should know everything, for sooner or later there is no fact in

history, in science, or of human knowledge, that will not come into play in his arguments. Painfully sensible of my ignorance, being devoted to a profession which 'sharpens and does not enlarge the mind' (laughter), I yet can admire without envy the superior knowledge evinced by the honorable manager. Indeed, upon my soul, I believe he is aware of an astronomical fact which many professors of the science are wholly ignorant of. But, nevertheless, while some of his honorable colleagues were paying attention to an unoccupied and unappropriated island on the surface of the seas, Mr. Manager Boutwell, more ambitious, had discovered an untenanted and unappropriated region of the skies, reserved, he would have us think, in the final councils of the Almighty, as the place of punishment for convicted and deposed American Presidents. (Laughter.)

"At first I thought that his mind had become so 'enlarged' that it was not 'sharp' enough to observe that the Constitution had limited the punishment; but, on reflection, I saw that he was as legal and logical as he was ambitious and astronomical (laughter), for the Constitution has said 'removal from office,' and has put no limit to the distance of removal (laughter), so that it may be, without shedding a drop of his blood, or taking a penny of his property, or confining his limbs, instant removal from office and transportation to the skies. (Laughter.)

"Truly, this is a great undertaking; and if the learned Manager can only get over the obstacles of the laws of nature the Constitution will not stand in his way. He can contrive no method but that of a convulsion of the earth that shall project the deposed President to this infinitely distant space; but a shock of nature of so vast an energy and for so great a result on him might unsettle even the footing of the firm members of Congress. We certainly need not resort to so perilous a method as that. How shall we accomplish it? Why, in the first place, nobody knows where the space is but the learned Manager himself, and he is the necessary deputy to execute the judgment of the court. (Laughter.)

"Let it then be provided that in case of your sentence of deposition and removal from office the honorable and astronomical manager shall take into his own hands the execution of the sentence. With the President made fast to his broad and strong shoulders, and, having already essayed the flight by imagination, better prepared than anybody else to execute it

in form, taking the advantage of ladders as far as ladders will go to the top of this great Capitol, and spurning with his foot the crest of Liberty, let him set out upon his flight (laughter), while the two houses of Congress and all the people of the United States shall shout, '*Sic itur ad astra.*' (Laughter.)

"But here a distressing doubt strikes me: How will the manager get back? (Laughter.) He will have got far beyond the reach of gravitation to restore him, and so ambitious a wing as his could never stoop to a downward flight. Indeed, as he passes through the constellations, that famous question of Carlyle, by which he derided the littleness of human affairs upon the scale of the measure of the Heavens, 'What thinks Bootes as he drives his hunting dogs up the zenith of their leash of siderial fire?' will force itself on his notice. What, indeed, would Bootes think of this new constellation? (Laughter.)

"Besides, reaching this space, beyond the power of Congress even 'to send for persons and papers,' (laughter) how shall he return, and how decide in the contest, there become personal and perpetual, the struggle of strength between him and the President? (Laughter.) In this new revolution, thus established forever, who shall decide which is the sun and which is the moon? Who determine the only scientific test which reflects the hardest upon the other?" (Laughter.)

On the 7th of May the Senate was ready to vote, but on account of the sickness of Senator Grimes final action was postponed until the 16th.

An order was passed, by a vote which disclosed the strength of the opposing forces, to take the vote on the 11th Article first, and then on the others in their regular sequence.

The close of the case was as exciting as the finish of an International Yacht Race or the Suburban Handicap. Tally-papers in the hands of partisans on both sides had enabled the gamblers to place huge bets on the result, and when the roll was called, the entire Senate, with one exception, had been canvassed and the immense concourse in attendance knew that the verdict depended on that single vote.

The scene has been depicted for us in the eloquent words of Senator Ross, of Kansas, who himself was the object of so much

solicitude to all. Every device known to political ingenuity was used to secure that one vote, and on the 14th day of May, 1868, the following telegram was received:

LEAVENWORTH, Kansas, May 14, 1868.

To Senators Pomeroy and Ross, Washington, D. C.:

Kansas has heard the evidence and demands the conviction of the President.

(Signed) D. R. ANTHONY,
and 1,000 others of our truest and best men.

To which Senator Ross sent back the following by wire:

To D. R. Anthony and others:

I do not recognize your right to demand that I shall vote either for or against conviction. I have taken an oath to do impartial justice according to the Constitution and the laws, and trust that I shall have the courage and the honesty to vote according to the dictates of my judgment and for the highest good of the country.

(Signed) E. G. Ross.

Two-thirds of the Senate were necessary to convict. Fifty-four members were present. According to these private memoranda, the vote would stand eighteen for acquittal, thirty-five for conviction—one short of two-thirds. What would the one vote be and how could it be had? The prosecution, after the sending of the above quoted telegram, had exhausted every effort to obtain it. The handful of Democrats in the Senate had been leading a forlorn hope, only eight against forty-six. But among the Republicans there were eleven Senators, four of whom were known as conservative, and seven whose party fealty had never until that hour been questioned. It remained to be seen how the honest manhood of these men should be tested and come forth, bright above reproach, but preserved only at the sacrifice of all their political future.

Describing the vote of these honest Republicans, Senator Ross says of Senator Fessenden:

"Though a political opponent of the President, the logical conclusions he had reached far outweighed all considerations

personal to himself, and the martyrdom he had provoked and knew he must suffer had no weight in the scale against what he deemed his duty to the cause of justice and the welfare of his country. His was the first vote against conviction."

Then followed the name of Senator Fowler, whose courage and keen sense of public propriety and personal honor were proof against all assaults, and he voted, "Not guilty."

Then in the order of the vote came Senator Grimes. "As he rose to his feet, supported by friends on either side, the scene became at once pathetic and heroic. In his then physical condition, and in view of the personal and public enmities which the vote he was about to give would inevitably engender, it was apparent that he was about to perform the last important act of his life. But though physically enfeebled by the fatal illness that was upon him, there was no sign of hesitancy or weakness. His vote was, 'Not guilty.' "

Senator Henderson, of Missouri, was opposed to conviction, yet that fact had not saved him from the unsparing anathemas of his political constituents. He voted, "Not guilty."

"Then the call went on down the alphabet, with unvarying responses of 'Guilty,' till the name of the uncounted Senator was reached. On the call of that name, the great audience became again hushed into absolute silence. Every fan was folded, not a foot moved, not the rustle of a garment, not a whisper was heard."

"They who have been out alone on the great plains of the West will recall the absolute profound silence which prevails there on a bright, still day, when there seems to be a lull even in the forces of nature, and the absence of sound seems intensely oppressive. That was the silence that pervaded the Senate chamber as the Senator rose to his feet at the call of the Chief Justice: 'How say you, Senator Ross? Is the respondent, Andrew Johnson, guilty or not guilty under this article?' At this point the intensity with which the gaze of the audience was centred on the figure then on the floor was beyond description or comparison. Hope and fear seemed blended in every face, instantaneously alternating, some with revengeful hate

predominating as in the mind's eye they saw the dreams of success, of place and triumph dashed to earth; others lighted with hope that the President would be relieved of the charge against him, and all things remain as they were."

"Conscious that I was at that moment the focus of all eyes, and conscious also of the far-reaching effect, especially upon myself, of the vote I was about to give, it is something more than a simile to say that I almost literally looked down into my open grave. Friends, position, fortune—yea, everything that makes life desirable to an ambitious man—were about to be swept away by the breath of my mouth, perhaps forever."

The answer was carried waveringly over the air and failed to reach the limits of the audience. A repetition was demanded by distant Senators. Then came from him, in a voice that could not be misunderstood, clear and ringing, "Not guilty."

When all had voted on the 11th Article, the Chief Justice announced the result as follows:

"Upon this article thirty-five Senators vote, 'Guilty,' and nineteen Senators vote, 'Not guilty.' Two-thirds not having pronounced guilty, the President is therefore acquitted upon this article."

Immediately the Senate adjourned to the 26th of May, and upon that day the vote was taken upon the 2d Article, with the same result, as also upon the 3d Article. Whereupon the President was declared acquitted upon each of those articles.

The managers, in despair, seeing their cause inevitably lost, sat dumb, while Senator Williams moved adjournment *sine die*, which motion was carried, and the case closed without vote upon the remaining articles.

THE RESULT.

It is perhaps to be regretted that the termination of this, the first trial of a President of the United States, should be so barren of results in the settlement of any of the grave questions of law which it involved. It can be viewed only as persuasive authority in any future controversy of that particular magnitude. The rulings of the Chief Justice were set aside so

frequently, and his opinions so disrespectfully set at naught, that in the last hour, upon a motion to adjourn *sine die*, in reply to an inquiry from Mr. Conners whether a ruling made by the Senate upon a given point did not stand as such until changed by the Senate, the Chief Justice exclaimed, rather testily: "Undoubtedly, but the Chief Justice cannot undertake to say how soon the Senate may reverse its rulings."

Much time was devoted to the discussion of the questions:

1. In what capacity does the Senate sit on the trial of this impeachment—whether as a court or not?
2. What constitute impeachable offenses and what are high crimes and misdemeanors?
3. Was the Tenure-of-Office Act constitutional or not?
4. Did the President have the legal right to suspend or remove the Secretary of War and appoint anyone to that office *ad interim*?

The simple failure to convict President Johnson by the shifting of one vote is too small a margin for reliance upon the case as a settlement of any principle of law.

Before the vote was taken, predictions were freely indulged that the President's acquittal meant ruin, disruption and death to the Republican party. But the funeral seems to have been indefinitely postponed. In like manner the partisans of Congress foresaw in his acquittal the "logical results of the war" (the synonym of spoils and plunder) vanish into thin air. Yet the Reconstruction Acts ran their fearful course to the end, until the carnival of crime and corruption which they encouraged was destroyed by its own excesses or fell under the ban of national opprobrium.

Without holding a brief for Mr. Johnson or agreeing with any of his critics or admirers, it is interesting to find some unbiased witnesses, whose views, however irreconcilable, are here given for those of you who are curious to know more of Mr. Johnson's character.

Professor Burgess sums up thus:

"The truth of the whole matter is that while Mr. Johnson was an unfit person to be President of the United States—

which may also be affirmed of some others who have occupied the high place—he was utterly and entirely guiltless of the commission of any crime or misdemeanor. He was low-born and low-bred, violent in temper, obstinate, coarse, vindictive, and lacking in the sense of propriety, but he was not behind any of his accusers in patriotism and loyalty to the country and in his willingness to sacrifice every personal advantage to the maintenance of the Union and the preservation of the government. In fact, most of them were pygmies in these qualities beside him. It is true that he differed with them somewhat in his conception of what measures were for the welfare of the country and what not, but the sequel has shown that he was nearer right than they in this respect."

Hear also what Mr. Charles K. Tuckerman has recorded of Mr. Johnson:

The President, unsolicited, had appointed Mr. Tuckerman to a foreign mission, and, in order to be certain that no misunderstanding existed, he called to see the President and let him know that he was a Republican of the straightest sect. "But," said the President, "I do not see why you shouldn't be a very good man, if you are a Republican."

Upon the suggestion by Mr. Tuckerman that the President should yield to the views of Congress, he says:

"Rising from his chair, the President, in a slow, modulated tone of voice and with impressive earnestness, as if addressing an audience from the rostrum, declared that he stood upon the Constitution; that, throwing aside all sectional prejudices, he had the interest of the whole country at heart, and fearing neither the threats of impeachment nor the mistaken views of popular opinion, he should maintain what he believed to be constitutionally right, without fear or favor."

"I left him," says Mr. Tuckerman, "with the conviction that, however impolitic or misguided might be his course, a more

honest-hearted man did not exist." And he concludes: "A man of higher integrity of purpose than Andrew Johnson never sat in the Presidential chair."

Among English authors on political topics, who, by the way, seem to know more about American politics than we do ourselves, Mr. Mackay, speaking of Johnson's effort to restore the Union, as early as 1866 writes of him as follows:

"If such a Union is to be the result, it will be the imperishable glory of Mr. Johnson, and his undying claim to the gratitude of his country, that he was sagacious enough to see the right course and bold enough to follow it. Among all the statesmen of his age, he stands pre-eminent."

"There is not a public man in Europe, unless it be the Emperor Napoleon, who does not appear dwarfed when placed in comparison with him." (This was before Sedan.) "Greater in his task than was that of Washington, brighter will be his place in history, if he perform it."

I have thus endeavored to place before you the salient features of this great assize, in its origin and progress the most important in the annals of American jurisprudence, in its results quite fruitless, save in the mere fact that one vote saved the President from destruction and the Fortieth Congress from infamy.

It is again in order for me to ask, though I can scarce hope to receive, your pardon for spending so much of your vacation in this discussion.

Conscious of the fact that this review has failed to include many of the most interesting points of the case, a failure in which I am consoled by the reflection that your patience must already have suffered beyond limit, I conclude with one of Mr. Evarts' sentences:

"I do not hesitate to say that this trial—to be in our annals the most conspicuous that our history will present, to be scrutinized by more scholars at home and abroad, to be preserved in more libraries; to be judged of as a national trait, a national scale, a national criterion forever—presents an unexampled spec-

tacle of a prosecution that overreaches judgment from the very beginning and inveighs and selects and impugns and oppresses, as if already convicted, at every stage, the victim they pursue."

Do you ask what became of the two distinguished men who were the real plaintiff and defendant?

Broken in health and keenly disappointed by the failure of the impeachment, Edwin M. Stanton resigned the War Office and retired to private life. On the 20th of December, 1869, his appointment by President Grant as an Associate Justice of the Supreme Court of the United States came too late. The hand of death was already upon him, and on the 24th of that month he sank into the grave.

Andrew Johnson, finishing his term, went back to the little village of Greeneville, Tennessee, and was there found one evening by a newspaper man in his shirt-sleeves hoeing potatoes. And in the interview which the enterprising Mr. Smalley had with him on that occasion he indulged in some racy comments upon the enemies he had left in Washington.

Nursing his hatred of General Grant, whom he called "that little fellow Grant," he was, in 1875, elected to the United States Senate, where he made a bitter speech against the General, whom he denounced as "the greatest liar in America."

While on a visit to his daughter in Carter county, Tennessee, he was stricken with paralysis, July 30, 1875, and died the following day. His grave at Greeneville is marked by a simple monument, dedicated with eloquent eulogy by Senator Fowler.

The time may come when a closer bond of union between the States than that established by the reconstruction laws will do exact justice to his memory.

REFERENCES.

- "Proceedings in the Trial of Andrew Johnson." *Rives & Bailey.*
Washington, D. C. 1868.
- "Twenty Years of Congress." *James G. Blaine.*
- "Reconstruction and the Constitution." *John W. Burgess.* 1902.
- "The Fortnightly Review," Vol. 4, p. 477. *Charles Mackay.*
- "Magazine of American History," Vol. 20, p. 39. *C. K. Tuckerman.*
Id. " 25, p. 47. *Charles Aldrich.*
- "The Nation," Vol. 2, p. 422.
Id. " 3, p. 310 (1866). *Editorial.*
Id. " 6, p. 184 (1868).
- "Scribner's Magazine," Vol. 11, p. 519. *E. G. Ross.*
- "North American Review," Vol. 102, p. 256. *Editorial.*
- "Lippincott's," Vol. 63, p. 512. *Burr.*
- "The Independent," Vol. 52, p. 2152. *E. V. Smalley.*
- "North American Review," Vol. 145, p. 69. *George Baber.*
- "The Century Magazine," Vol. 32, p. 577.
- "McClure's Magazine," Vol. 14, p. 171. *George S. Boutwell.*
- "Galaxy," Vol. 13, pp. 521, 663. *Gid. Welles.*
- "Messages and Papers of the Presidents," Vol. 6. 1861-1869.
- "Butler's Book," pp. 926 *et seq.*



JNO. W. DANIEL

The Work of the Constitutional Convention

PAPER READ BY JOHN W. DANIEL
OF LYNCHBURG, VA.

Mr. President and Gentlemen:

It is a great honor to be invited to address the Virginia State Bar Association. I appreciate that honor, and making my acknowledgments, I give you one and all the greetings of fraternity.

Profound and thrilling themes have been discussed before you, ranging from the philosophies of corporate development and the technicalities of legal and equitable jurisprudence, to the great dramas of State trials and public issues. Your orators and essayists have made the record of your meetings a rich contribution to the history and literature of the law, and I venture in their footsteps with a practical work-day topic, not altogether new, and to other than very interested parties, somewhat dry.

As a rule, your speakers have chosen their own subjects, but mine for this occasion, was chosen for me by your Executive Committee—"The Work of the Constitutional Convention of 1901-1902." It often saves perplexity to have your subject chosen for you. It is also after the manner of the Bar, which always has its subjects chosen for it by those paramount people

"Our Clients." We sometimes wish we had better ones. We sometimes regret that as the courts discover our views of them are not consonant with the law. Still if we have done our best, our consciences are composed. If our tempers are not always as composed as our consciences, we have the consolation of "taking it out on the Court," and telling our friends behind the scenes that it is not as learned or as able a Court as we used to think it to be. As the years roll by, and the doctrines settled against our protest have become recognized principles of law, and some day we turn to the Report and read over again the decision in which our hopes were blasted, a suspicion steals over us that maybe after all the Court was wise and right in its conclusion. Some other day a client calls and tells his tale. As the facts unfold you realize that they bring his case under the saving grace of that once reviled decision. When you have won it for him in that once depreciated Court, pocketed your final fee, and sent the happy client on his way rejoicing, you admit to yourself "That it is a pretty good Court after all," regard your original opinion of its learning and ability as thoroughly vindicated, and salute it in the end as Shylock did prematurely with "oh! most righteous Judge." We note here the effect of the standpoint on opinion, and the Convention, we shall see, has illustrated that effect as well as your own experiences.

TIME THE TEST.

But time is the great test of men and measures; and time must test the workings and the practical effect of the new Constitution before a just estimate can be made of its value; for a Constitution is like a shoe or a coat, you must try it on and wear it to tell its fitness and worth. John Locke made a Constitution for North Carolina which was swiftly relegated to the tomb of the Capulets. Benjamin Franklin presided over the first Pennsylvanian Constitutional Convention and predominated in its work, but their Constitution, with its almost omnipotent single power of legislation, was as swiftly repudiated as John Locke's. On the other hand, the Massachusetts Constitution of

John Adams remains to-day, with slight alterations, the massive monument of a massive man. There were but four lawyers in that first Pennsylvanian Convention! A fact the significance whereof you will not fail to appreciate.

TEMPORA MUTANTUR.

The Convention consisted of one hundred members, eighty-eight Democrats and twelve Republicans, all white men. Shades of Underwood! Have thirty years of education educated the Republican party of Virginia to conclude that not one colored man was suitable to represent them? That Underwood Convention of 1867 had one hundred and five members—twenty-four colored men, thirteen New Yorkers, one Pennsylvanian, one Ohioan, one Vermonter, one Marylander, one from Maine, one from Connecticut, one from the District of Columbia, one from Canada, one from Nova Scotia, two Englishmen, one Scotchman, and one Irishman, with thirty-five of our own folks, and fourteen native born opponents who might "have left their country for their country's good," but up to that time had failed in that patriotic duty.

Sixty-two members of our late Convention were lawyers, twenty-two were judges or ex-judges, one had been Attorney-General, and one was elected from the Convention to that office. Some, who do not reverence our profession, might say that this was "Ominous of a bad sign," but remember Pennsylvania! This jury, at any rate, I think I may rely on to give a verdict of "Not guilty" to this soft impeachment. But farmers also there were by the score, and railroad men, bank men, newspaper men, fruit men, cattle men, storekeepers, and clerks, doctors, preachers and teachers—and they, maybe, leavened the whole legal lump. A lawyer, by request, called the Convention to order. Another one, our beloved associate, Hon. Wm. B. Pettit, was chosen temporary President. Still another, the Hon. John Goode, ex-Solicitor-General of the United States, ex-President of this Association, and ex-member, too, of the Convention

of 1860—John Goode, with the bloom of perpetual youth on his face, and perennial love of Old Virginia in his heart, was unanimously elected President—a choice vindicated by the serene justice and apt ability with which he administered his office.

FLUCTUATING PUBLIC OPINION.

The body sat long and debated much. It numbered 379 days from tip to tip—June 12th, 1901, when it met; June 26th, 1902, when it adjourned without day. But some two months in vacations. Public opinion about it showed great fluctuation. When it met, it was saluted as a band of sages. As unfruitful months departed, doubts of its ability began to be murmured, with cries of “Time! Time!” A little later, irreverent banqueters mimicked its members, and ridiculed its proceedings, and it became the mark of the comic actors of the passing show.

The eternal pessimist and prophet of the past declared that he had always opposed the Convention, and always knew it would do nothing but spend the people’s money. The Convention was patient. Neither sultry Summer, bleak December, or returning Spring spurred its speed. Numberless plans and specifications for almost everything were proffered from without—some as wild as the rocket’s flight, some as curious as any curio of Old Curiosity Shop. They, if at all available, were being sized up, studied, compared, debated, winnowed out, chewed and digested.

As Summer came again, out of laths and plaster, brick and mortar, scantlings and shavings, a new Constitutional structure arose. As its proportions outlined themselves to view, and lower taxes, better revenues, stricter administration, corporate restrictions, enlarged privilege of labor, and fortified white ascendancy were recognized, crabbed accents changed to harmonious notes. When on May 29th, 1902, the Constitution was ordained, the people in most sections of the State were crying out “Ordain! Ordain! give us a turnkey job!” And some

who voted to submit, because they thought it right and obligatory to do so, had to cling to personal faith against the dissent of many constituents.

There remained, of course, opposition in some sections, but withal, there was then, and there is now, in the State a pervasive feeling that "it was a pretty good Convention after all," that a good work has been accomplished, and that the workmen deserve the plaudit "well done."

IMPEDIMENTA.

Nearly everyone thinks that he could run a farm, edit a newspaper, make a first-rate member of Congress, and frame a Constitution. But if he had tried his hand on a new Constitution for Virginia, he would have thought he was "up against the real thing." Not that he may not have been exactly right in his self-confidence, but as everybody else would think the same thing of himself, and put his own pet Constitution ready-made, in competition, the rub would come in selecting the one to be decreed the act of all. This is one of the great rubs that always comes in law and constitution-making, and while every man's plan will likely have something that is good in it, there is likely also to be something in it that will pinch somebody's foot somewhere. Pleasing everybody is not an attainable feat in any kind of worthy political movement. Governor Wise was right when he said he would not give a fig for a constitution framed by a convention in less than a year, and to no State is the wisdom of the remark more applicable than to Virginia. What rare diversities of interest does she present? How old we are as a State we realize when we recall that our first legislature met in 1619, before the landing of the Pilgrims, that it made the outcry of representation and taxation to be tied together in 1624, and that we raised a rebellion one hundred years before that other rebellion of 1776, which being successful, we euphoniously call "The Revolution."

How young we are, we realize when we see that we have cities of twenty thousand inhabitants that are not yet of the man-

hood age of twenty-one; that deer and bear and wild turkeys may be hunted between Richmond and Norfolk; and that some of us here to-night used to come here in the old stage coaches, and lived before the day of railroads, and are not too old to keep up with the boys at that.

We are saturated with old time histories and traditions, like Massachusetts; indeed, much more so, as less than 2 per cent. of our population and more than 40 per cent. of hers is foreign-born.

In some parts we are as new and up-to-date as Minnesota and Wisconsin, with new populations and new movements. In some places west of the Alleghanies, we are somewhat like Vermont, where maple sugar is a live issue, and where the race question is only an abstract speculation. In thirty-five counties of the eastern section, where the blacks predominate, that race question is as fearfully realistic as in Louisiana, South Carolina or Mississippi. There are other counties where the blacks have a formidable balance of power, and the white race moves like the Holland boat, sometimes on top, and sometimes under the water, but always with steam up, and the invincible pennant flying.

Like Kentucky, we have the isolated populations of wild mountain ranges, walnut and oak forests, yellow and black tobacco, the sheep and cattle of a thousand hills, fine bred horses, horse shows and horse races and big mules, blue grass, the succulent rye and Indian corn, and, like her, we smoke the pipe of peace under our own apple-trees hardby where the moonshine falls upon the mountain, with an "Auld Lang Syne" back glance at the resolutions of 1798.

Like Pennsylvania, we have the Scotch-Irish, the Dutch farmers, the Dunkards, big barns, Conestoga horses and apple butter, big shipyards, furnaces, mines, factories, strikes, walking-delegates and the labor question, and the Pennsylvania railroad. Peanuts and cotton, oysters and fish, canvas-back duck and the mocking-bird, the sea-gull and the Atlantic waves on the one hand; the black diamonds of commerce, iron, copper,

lead and zinc mines, and the mountain eagle on the other. Let these multitudinous tokens of nature bespeak the various wants and tastes for which the constitutional table had to be prepared.

UNEVEN DISTRIBUTION OF POPULATION.

Greatest of all difficulties arise out of the uneven distribution of population. In large sections snowdrifts of the white race, in others, banks of Africa; in Dickenson county, for instance, one colored man, in Norfolk county 8,000 black majority. Scylla and Charybdis for the political mariner with a suffrage proposition! An able and distinguished member of our body proposed one system of suffrage for the eastern and another for the western counties, but while this was constitutional, reflection led to the abandonment of the duplex idea, and we set our sails to tackle and flank Scylla and Charybdis.

But I anticipate a little in going at once into these questions. Let me now come down to hard pan, and taking the articles of the Constitution consecutively as I find them, tell you the work the Convention did upon them.

THE BILL OF RIGHTS, ARTICLE 1.

First comes the Bill of Rights. A few amendments were made to it, but not without long discussion.

(1) Upon a plea of "Guilty" in a criminal case, tendered in person by the accused, and with the consent of the attorney for the Commonwealth, the Court *shall*, in its discretion, hear and determine the case without the intervention of a jury.

(2) And under similar conditions in a prosecution for an offense not punishable with death or confinement in the penitentiary, upon a plea of "Not guilty," the Court *may* hear and determine the case without the intervention of a jury.

(3) The General Assembly may, by law, provide for the trial of offenses not punishable by death or confinement in the peni-

tentiary by a Justice of Peace without a jury, but in all such cases the right of the accused to an appeal and trial by jury in the appellate Court shall be preserved.

(4) And the General Assembly may also provide by law for juries consisting of less than twelve, but not less than five men, for the trial of offenses not punishable by death or confinement in the penitentiary, and may classify such cases and prescribe the number of jurors for each class of cases.

(5) Juries may be limited to the number of five in cases non-cognizable before Justices of the Peace, and in other cases to seven.

These changes are economical, a saving of time, labor and money, and are in accord with the prevalent opinion.

I regret that the original Bill of Rights of George Mason and of 1776 was not preserved in the new Constitution *verbatim et literatim*, and both sympathized and voted with the Hon. Wm. B. Pettit in his efforts to that end. I would not have touched a hair of its venerable head. Elsewise might have been written proper clauses consistent with it. It is the American Magna Charta, ranking with the Declaration of Independence as a State paper, and it is the thought of an epoch-making time "wrecked upon expression." It led the line of American movement in revolution. It has marched with our race across the continent, and from its flame the younger Commonwealths have lighted their torches of free-principle. Like the Marseillaise Hymn, it belongs in the van of the invincible columns of liberty.

ARTICLE 11, THE ELECTIVE FRANCHISE.

Next comes the elective franchise in the second article of the Constitution. There were more divergent interests in, and wider differences of opinion on, that subject than any other. It was recognized as alike the most important, difficult and delicate matter we had to deal with. Universal suffrage justly won in Virginia in 1850 and none would seek to disturb it now but for the piled up ignorant and easily misled black vote in cer-

tain sections of the State. We must "bear one another's burdens," and this Christian spirit alone inspired many to support the change. The seventeen committees consisted of eleven or fifteen members, but this committee had twenty-two members—twenty democrats (two from each Congressional District) and two republicans (one from the sixth and one from the ninth District. I had the honor to be appointed Chairman of the Suffrage Committee, a position which I neither sought nor avoided. It was the third committee of the seventeen to report, on September 27, 1901. Twelve members, headed by Hon. A. P. Thom, of Norfolk, made the report. A minority of six of us, as much as we respected and liked our majority associates, could not agree with them, and the next day I had the honor to submit the minority report with a full suffrage clause and also with a scheme of registration. One member made a minority report of his own and the republicans dissented. Soon after this I was taken sick and was absent over four months. When I returned, the Convention laughed as I said, rising to speak on the subject, "I find you just where I left you on the suffrage question." Finally the original minority report was for the most part adopted by the Convention both in its general plan and in many of its details. But some amendments were made to it, as to all other reports; quite few, I think, considering the wide diversity of opinion on the subject.

THE MINORITY PLAN.

To provide for those who can now vote, this plan enrolled them as voters at any time prior to 1904, and made them permanent voters. After 1904, it required new applicants for suffrage to apply for registration in their own handwriting, and, unless physically disabled, they were to prepare and deposit their own ballots. By this original minority plan suffrage was conferred upon those who possessed the following requisites:

- (1) Male citizenship and the age of twenty-one.
- (2) The prepayment, six months before election, of a capita-tion tax of \$1.50, applicable after January 1, 1903, and there-

after to all such capitation taxes assessed under the new Constitution. But no such tax applied to ex-soldiers as a prerequisite to vote.

(3) Residence in the State two years; in the county or town one year; and in the precinct thirty days.

(4) Registration.

Subject to these provisions any one could vote:

(1) If he had heretofore served in the military or naval forces of the United States, the Confederate States, or any States in time of war.

(2) If he could read a section of the State Constitution.

(3) If he could understand it when read to him, or,

(4) If he could give a reasonable explanation thereof.

(5) If he had paid to the State in taxes for the previous years as much as \$1.00 on property owned by and assessed against him.

Few, if any, whites would have been prejudicially affected by this scheme. There are 301,000 whites of voting age in the State and 146,000 blacks; in precise numbers 155,254 white majority. Two hundred and sixty-five thousand whites, or all but 36,000 (some 12 per cent.), can read and write, and only 69,000 blacks can read and write, making on the line of literacy 195,528 white majority. This majority would be increased under the plan by additions from those who can read, those who have been soldiers or sailors, those who have paid \$1.00 tax on property (of whom there are 100,000 whites) and the white phalanx practically all enrolled would be impregnable.

THE AMENDMENTS TO THE MINORITY PLANS.

Hon. Carter Glass, of Lynchburg, conferring with some of the minority members during my sick absence, proposed certain amendments to the minority plan which he approved; and some of these amendments were adopted. This gentleman's aid was a powerful help to the minority plan, and his parliamentary skill greatly supplemented his earnest and able efforts. The most important of the amendments was the one which requires

that those who register prior to 1904 shall not only be able to read a section of the Constitution, but shall also be able "to give a reasonable explanation of the same," or if unable to read such section, "shall be able to understand the same, and give a reasonable explanation thereof to the officers."

This variation of the Mississippi understanding clause (which the minority had recommended) was accepted by the minority of the committee to reconcile opposition.

Another amendment was that proposing to put "the descendants of soldiers," as well as "soldiers," on the roll; but the Convention itself changed this amendment by limiting the descendants to the "sons of soldiers." These were the only changes made in the plan operative before 1904, except that the capitation tax requirement was made to go into effect in 1904 instead of 1903.

To the plan operative after 1904 the Convention adopted the two Glass amendments: First, the one that confines the requirement of capitation tax payment to a limit of three years; which I regard as an improvement on the minority plan, and I would have been glad to have seen the requirement limited to the capitation tax of the current year. Second, the other requires the applicant in writing for registration after 1904 to do so "without aid, suggestion or memorandum, stating his age, date and place of birth, residence and occupation at the time and for two years next preceding, whether he had previously voted, and if so, state the county and precinct in which he voted last." I do not consider this required exercise of memory an improvement of the measure; but it was yielded to in order to prevent worse.

The reason why the minority had declined to recommend in their report that those who can read a section of the Constitution should also be able to understand, or explain it was manifold; first, because it greatly multiplied the discretionary features of administration; and, second, because it applied them to so numerous a body of the most intelligent and best qualified citizens. Thus, there are 265,000 literate whites of electoral age in Virginia who can read and write, and only 69,000 blacks, about four to one, and but for the reduction of the number of literate

whites who are subjected to this clause by the superior number of whites who pay \$1.00 tax on property, and who have been soldiers or are sons of soldiers, the provision might prove disastrous to any good result. In Virginia, too, it is proper to note that the numerical strength of the colored race is constantly decreasing, and that of the whites constantly increasing. The white popular majority in 1880 was 249,222, in 1890 384,684, and in 1900 had arisen to 532,133. With every sunrise strengthening white ascendancy, and every tick of the clock bringing reinforcements, it would be profoundly unwise by any extreme course to alienate our own people from each other, or precipitate acute issues, when time and patience are sure cures for our troubles.

The supplementary sections of the original minority report with reference to seamen, soldiers and students, not gaining or losing residence by reason of temporary station; limiting the disability for duelling (as has been usual in our new Constitution) to future offenders; voting by ballot; keeping the ballot box in view; providing ballots without distinguishing marks or symbols; printing names on ballots in clear print and in orderly succession; exemption from military, road or jury service during the time of election; and saving to the youth who will come of age in time to vote the right of suffrage, were all adopted by the Convention with slight amendments. A few sections were added; one with respect to legalized primaries; one authorizing the General Assembly to impose additional property qualifications of suffrage in counties, cities and towns, upon the initiative of the local representative; one with respect to the electoral boards; and one offered by myself making all voters eligible to office and enabling women, like men, to be made notaries public. The section requiring lists of those who have paid the capitation tax to be posted, which was in both the original majority and the minority reports was adopted, and to the regret of some of us, the additional provision of the original minority report making the tax receipt evidence of payment of the capitation tax was defeated. The General Assembly, however, was authorized in its discretion to fix the evidence of capitation tax

payment as it may deem best. Some of the supplementary sections were common to both the majority and minority reports, and a few were only on the majority report. That report, recognized as original and able, was not adopted because it was thought to be more rigid than necessary, and to contain too many administrative features.

RETENTION OF THE BALLOT SYSTEM.

You will observe that the ballot system is retained. The people of Virginia had become accustomed to it and the public opinion of the age so sustains it that but little effort was made for the restoration of *viva voce*. The world has changed more in the last thirty years than in any previous century of its history. The vast evolution of manufactures, transportation and commerce has precipitated one man or a small coterie of men, to the control of prodigious establishments employing hundreds of thousands of workmen, and a change of opinion has taken place like that which went over England when manufactures arose to ascendency, which took place in the north when they were developed there, and which is now making itself felt all over the south and all over the civilized world. In this condition the ballot has become to be regarded as a shield of labor and as a feud-preventer and peace-maker. The risk of corruption which attends it is regarded as the choice of evils and as preferable to the corrupting influences resulting from the controlling power that exists in the bosses of the great establishments who can dismiss at pleasure those who vote against their will. England long ago abolished the *viva voce* system despite the blasting irony of Sydney Smith against the ballot, and all her world-wide progeny, everywhere, have done likewise. So it has come to pass that there is not a spot of earth under the Stars and Stripes or the Union Jack where the ballot does not obtain.

It is a little curious that our Democratic brethren have adopted *viva voce* primaries, while adhering to the ballot in elections. But this experimentation with the two systems side-

by-side, will probably induce a better comparison than has ever before been made. From that comparison, judgment will be enlightened, and that which is best approved will win.

THE UNDERSTANDING CLAUSE.

Everybody dislikes the Understanding Clause, and everybody said so. Nevertheless, both majority and minority reports recommended such a clause, the majority as a permanence, the minority temporarily, and nearly everybody finally supported it in the temporary form. Why? Because literature had been searched in vain for anything else that was not more objectionable, and because the Supreme Court of the United States had confirmed its constitutionality. It is limited in operation to a brief career of two years, and we will then move on the sounder and better basis of literacy.

CONSTITUTIONALITY.

The Suffrage Clause is not obnoxious to constitutional objection, for it makes no distinction anywhere on account of race or color or previous condition of servitude. It is as colorless as a pane of plate glass, and so is the whole Constitution. The civil grandfather clause, putting all the descendants of those who could vote at a certain anterior time upon the registry, as in Louisiana; and the military grandfather clause, putting all descendants of soldiers and sailors upon the registry, as in Alabama, were alike wisely rejected. Whether assailable or not under the 14th and 15th Amendments of the Federal Constitution, the constitution of democracy is in its nature opposed to hereditary preferences and distinctions, and such a clause would have been the incessant theme of harsh animadversion, and the constant cause of irritation and discontent. While I am so opposed to hereditary distinctions, that I resisted both of these clauses or any clause that contained an hereditary element, candor compels me to say that the sons of soldiers stand on a footing in Virginia that entitle them to high consideration.

If any kind of hereditary discrimination were ever thoroughly justified, the exemption of them from educational requirements is justified here. This State was the focus of the greatest war of modern times. Out of 2,200 battles of civil strife 600 were fought upon her soil. Two great armies for four years fed upon her vitals. Her institutions of learning were closed, many were destroyed, while professors and teachers were literally engaged in teaching the young idea how to shoot. When war ended, the struggle for existence kept thousands and thousands of the young away from halls of education, and the returned soldier had his hands full to provide for a widowed mother, an orphan sister, or some other dependent more helpless than himself. The Convention, therefore, with no small sense of justice, regarded it as the equity of history that her sons of soldiers of the past generation should not be subjected to educational tests of suffrage, but only to the payment of the capitation tax. It is true that more whites than blacks are favorably affected by this discrimination, but not more so than by any other suffrage qualification, be it property, be it literacy, be it any sort of excellence, moral, intellectual or physical; for the white race is an old historic race of civilization, that both inherently and incidentally has superior qualifications of every kind. In some sections, as in Accomac and Northampton, the colored people, it is said, will get more benefit from the soldier clause than the whites, as the Eastern Shore was occupied by the Federal army early in the war and the colored men generally enlisted in it. Be this as it may, the colored man can now vote if he can read intelligently the Constitution of his State, or can explain it when read to him, if he pays a \$1.00 tax on property, if he has served in war as a soldier, or as a soldier's son; and there is no sort of discrimination against him on account of race, color or previous condition of servitude.

I have probably taken too much time on this one topic of suffrage. But it concerns every man in the State. I had an intimate connection with it. The task was heavy and ungracious. The general plan which I had the honor to report from a minority, consisting of Messrs. W. A. Anderson, Bouldin,

Smith, Stuart, Harrison, and myself, with the amendments which I have cited, won out against a score or more of competitive propositions, and it seems to me that the statement which I have made was right. The ability displayed by Mr. Glass has been universally recognized, and none appreciated the aid he gave to the solution of the question more than I do. No two men will precisely agree about a subject so complicated, but while I had much rather that some of the amendments had not been made, it is believed that the least objectionable scheme that was possible of passage was adopted, and that it will accomplish the end for which it was designed, namely: the elevation of the electoral franchise, and the purification, in large degree, and in distinct features, of elections.

THE LEGISLATIVE DEPARTMENT.

The industrious Committee on the Legislative Department was the first charged with so important a task to report. In this article they followed the spirit of the age as indicated by the new Constitutions of Louisiana, California, Kentucky, Nebraska and others, in limiting legislative sessions and minimizing the range of special legislation. You will observe that, as in the suffrage, so in the legislative, the corporation and other articles, there is the lengthening out of constitutional powers and restrictions, and hence the increased bulk of the Constitution.

This has been everywhere the American tendency, and it arises largely from the complex nature of our civilization produced by the changes already referred to, in manufactures, transportation, and commerce.

The two early Pennsylvania Constitutions of 1776 and 1790 covered eight pages, that of 1873 twenty-three pages. Missouri's Constitution increased from twelve pages in 1820 to twenty-one in 1865, and to thirty-three in 1875. Virginia's first Constitution and the Bill of Rights in 1776 had only four pages. It expanded to seven in 1830, to eighteen in 1850, to twenty-one in 1869, and here we have 197 sections and sixty-

five pages in the early dawn of the twentieth century. Do these extensive Constitutions foreshadow the future codification of constitutional principles?

This elaborate article provides that the House of Delegates shall be elected biennially as heretofore, but the whole Senate is to be elected quadriennally instead of half-and-half at successive biennial elections.

As the members of the Supreme, Circuit and Corporation Courts are to be elected at different periods to prevent the consolidation of power at a particular period of time, it is not seen why the old system that removed the Senate from the like influence should have been changed. Popular passions and transient influences, not always the best, affect all peoples, and the conservative principle that elected the Senate in two detachments seemed to be both well proved in theory and well operative in experience. An age of steam, electricity and dynamite ought to be conservative.

There are many wise provisions.

Federal and State officers, judges, attorneys for the Commonwealth, sheriffs, sergeants, treasurers, assessors, collectors, commissioners of the revenue and clerks of court are prohibited from membership of the General Assembly, and to hold any other office except those elected by the people.

The General Assembly meets the second Wednesday in January instead of in November, as heretofore.

No sessions of either House can last longer than sixty days without the concurrence of three-fifths of the members.

To prevent hasty and covert legislation, no law shall be enacted except by bill, no bill shall become a law unless reported to, acted upon, and returned by a committee, printed, read on three different calendar days in each House, and voted on by ayes and noes, two-fifths concurring, subject to suspension of the rules under special and exigent conditions.

JOINT AND STANDING COMMITTEES.

There is to be a joint committee of the General Assembly, seven of the House and four of the Senate, on special, private

and local legislation. Every special, private and local bill must go first to this committee, which reports on entry whether its object can be accomplished by general law or Court proceeding. All of which will prove a great saving of time and labor to the General Assembly.

There is also to be a standing committee of two Senators and three Delegates at each session of the General Assembly, which shall annually, or oftener in their discretion, examine the books and accounts of the First and Second Auditors, State Treasurer, and Secretary of the Commonwealth, report to the Governor and publish the report in two newspapers of general circulation.

An amendment to a bill by one House shall not be concurred in by the other except by an aye and nay vote of two-fifths of the members elected, including a majority of those voting.

DAMAGE TO PRIVATE PROPERTY.

No private property shall be taken or "damaged" for public use without just compensation. The word "damage" is new, and was inserted to secure damages to the property holder in cases where property not taken suffers consequential damages from the appropriation to public uses of that which is taken. The courts in their decisions have differed in their allowance of damages in such cases, and this is done to fix a rule for their guidance. It is in accordance with provisions for the construction of and in the interest of property holders.

No new office can be created except by the aye and nay vote of a majority of all the members elected in each House of the General Assembly.

No law except a general appropriation bill shall take effect until ninety days after the adjournment of the General Assembly, except in emergency to be expressed in the measure, and by direct four-fifths aye and nay vote of the members of each House.

The Courts are to have the power, and special legislation, is prohibited, to grant divorces, change names, direct the sale of estates of those under disability, and "Thou shal't not" is

said to the General Assembly in more than twenty instances wherein they must act by General Laws and not by special ones in particular cases.

QUADRENNIAL SESSIONS.

At one time the Convention provided for quadrennial sessions as well as quadrennial elections of the General Assembly. This provision was happily reversed.

"Better fifty years of Europe than a cycle of Cathay," and two years of rapid, whizzing modern life is as full of change, and of the necessity for legislation, as a decade of ante-bellum days.

In all free movements the Legislature has been the van-leader; and in all free government, it has ever been and must be the main thing—the representative body of the people, where their grievances are heard, and their progressive aspirations entertained. When it fails utterly, free government is gone gote. The history of the English Parliament is the history of English liberty. The Continental Congress launched America; the Virginia Legislature led in the great Rebellion—led in the call for the Constitutional Convention, and is now engaged in putting into effect its work.

THE GENERAL ASSEMBLY.

I had no sympathy with the assault made by some of our members on the Virginia Legislature, and was glad to defend it. They have their faults—so has everybody else. They have made mistakes—so has the Convention, and so has everybody else. But the history of the General Assembly since the war, not to go further back, is a noble history, and if it ever be fully written will redound for the most part to the high honor of the State. In 1869 it took hold of the affairs of a desolated, ruined, bereaved, bankrupt rended and disfranchised Commonwealth which had been reduced to Military District No. 1. It fought its way to power over the bayonets of a conqueror, and

through the ranks of an alien race, led by aliens and worse than aliens. It relaxed the grip of the carpet-bagger and said with power what Greeley said with rhetoric, "Go back thieves." Since then it has kept down taxes, restored public credit, put capable Courts and honest men in office, established and cherished a great and flourishing school system, secured laborers on public works their wages, sustained our eleemosynary institutions, compelled corporations to pay taxes in counties and cities, supplied limbs to broken-bodied soldiers, given a home to them also, and pensions to the destitute, turned a deficit in the treasury to a surplus, and paved the way for the Convention to reduce taxes twenty-five per cent. on real and personal estate. And all this while drawing from the treasury themselves a pittance that was but the shadow of compensation. Let facts speak. These are facts that will forever stand to the credit of the General Assembly of Virginia.

EXECUTIVE DEPARTMENT.

The article on the Executive Department shows some important and salutary amendments. The Governor may suspend, during the recess of the General Assembly, executive officers, at the seat of government except the Lieutenant-Governor, for misbehavior, incapacity, neglect of official duty or acts performed without due authority of law, and appoint *pro tempore* successors. He reports the suspension and its cause to the next General Assembly, whereupon it determines whether such officer shall be restored or removed. He may approve the general purposes of a bill or joint resolutions; and may disapprove a part, returning it to the House in which it originated, with recommendation of its amendment. If both Houses agree or disagree to the amendment, they then return the measure to the Governor and he acts upon it as he should have done the first time. He may also veto any item or items in an appropriation bill and approve the others.

If a measure presented to the Governor shall not be returned to the author for five days afterwards (Sundays excepted), it

shall become a law as if he had signed it, unless the General Assembly by its adjournment prevents such return; in which case it shall be a law if signed by the Governor within ten days after such final adjournment and not otherwise.

The State Treasurer is made elective by the people at the same time, and for the same term as the Governor. The General Assembly is commanded to provide a system of checks and balances between officers at the seat of government, who are charged with the collection, receipt, custody or disbursement of the revenue of the State; and bonds are required of the deputies, assistants or employees of officers charged with the public funds, as well as of their principals.

JUDICIARY DEPARTMENT.

This clear-cut article met the predominant sentiment of the people and the Convention. The judiciary under it consists of a Supreme Court of Appeals of five Judges, Circuit Courts, Corporation Courts and Justices of the Peace. The General Assembly may add such courts as the public interests require in cities of over 30,000 inhabitants. Special Courts of Appeal to consist of three Judges, of the Supreme Court, of the Circuit Court and of the City Courts of Record to try cases in which a majority of the Supreme Court Judges can not sit, or cases which can not be tried with convenience; and also Land Courts by which is meant courts for the registry of land titles, which have elsewhere been found to be great sources of public economy, utility, convenience and safety.

The Supreme Court Judges are to get an annual salary of \$4,000 and the Circuit Courts not less than \$2,000.

The State is to pay the Supreme Court salaries; it is to pay half of the Circuit Court salaries, the cities and the counties of the Circuit paying the other half, except in Richmond where, on account of the State business there transacted, the State pays the whole salary.

In cities of 10,000 inhabitants, or more, the Judges of the City Courts are to get not less than \$2,000, paid by the State

and City, half and half; but the City may increase the salary at its own expense.

Cities of less than 10,000 inhabitants, if they indulge in the luxury of a City Judge, must pay for him themselves. Salaries are not to be increased or diminished during a Judge's term. Where cities share liability for salaries, the State pays first and reimburses itself from the cities afterwards.

Judges can not practice law or hold any other office, but Judges of a Court of a city under 5,000 in population, may be Commissioner in Chancery of the Circuit Court.

The General Assembly is to elect the Judges and prescribe the jurisdiction of Justices of the Peace and they are to be appointed or elected as it prescribes.

There are to be twenty-four Circuits and they may be increased or diminished with this limitation that no Circuit is to fall below 40,000 inhabitants, and none to be formed of less. At the first election of the Supreme Court, one Judge is to be chosen for four years, two for eight and two for twelve years, and thereafter all for twelve years, and half of the Circuit Judges and City Judges are to be chosen for four, and one-half for eight years, and thereafter all for eight years; and of City Judges this is likewise, that the election of all may not take place at the same time—an arrangement departed from as to the State Senate.

The jurisdiction of the Courts and Judges is to be conferred by law, but the Supreme Court is to have original jurisdiction in all cases of *habeas corpus*, *mandamus* and prohibition, and on them only; and appellate jurisdiction (1) on all cases involving the constitutionality of a law, (2) on the life or liberty of any person, and (3) such other cases as may be prescribed by law.

Three hundred dollars (exclusive of costs and interest on judgment on the court below) is made the limit of jurisdiction in civil cases, except in the particular cases named.

No appeal is allowed the Commonwealth in any case involving life or liberty, unless it be provided for in any case involving the enforcement of the law of the State.

ABOLITION OF COUNTY COURTS.

The County Courts are abolished. In compensation, the circuits are increased from sixteen to twenty-four. Moreover, the County Clerk may be authorized by the General Assembly to exercise jurisdiction "in the matter of admission of wills to probate, and of the appointment and qualification of guardians, personal representatives, curators, appraisers and committees of the estates of persons who have been judged insane or convicted of felony, and in the matter of the substitution of trustees."

Boards of Supervisors are required to meet at fixed periods to the end that they may fix a substitute for the old-fashioned court-day and provide an additional rallying point for the popular gatherings and demonstrations.

Farewell, old County Court! We part with you regretfully, and not without misgiving. The people did not feel that they could pay what you were worth, or that it was just to you or themselves that you should live on half rations and be compelled to jump over the judicial rail into the forum of legal contention. With you departs many a happy association, and many a delightful remembrance lingers in your wake—like the phosphorescent play of the waves when the ship has passed.

This be your tribute: No public servants so poorly paid ever served the State so worthily and well.

CITY AND COUNTY GOVERNMENT.

Some worthy reforms in municipal government are instituted. Cities are defined as incorporated communities of 5,000 population or more, and towns are those of less than 5,000. General laws are to govern them, except in cases where the object of a special one cannot be otherwise obtained in the opinion of the General Assembly, and so indicated by a two-thirds recorded vote.

Commissioners of the Revenue of cities and counties alike may be elective or appointive, as provided by law, and if

chosen by the people shall be ineligible for the next succeeding term.

The City Treasurer, and County Treasurer also, is elective by the people for a term of four years, but cannot serve for more than two consecutive terms nor act as deputy for their immediate successor.

The City Council is accountable to the General Assembly and the Mayor to the Governor.

The City Council is elective and is to consist of two branches, unless the General Assembly permits otherwise in cities under 1,000 in population. The Council cannot elect a member to office during his term or within a year afterwards.

The Mayor may veto a resolution or ordinance of the Council, and two-thirds of the members elected may carry them over his veto. Like the Governor, he may veto any particular item of an appropriation bill.

The consent of the corporate authorities is necessary to the use of streets, alleys or public grounds by street railways, gas, water, steam, electric heating, light or power, cold storage, compressed air, viaduct, telephone, or bridge company, or any person, partnership or association engaged in these or like enterprises.

City franchises are limited to thirty years, and, except as to trunk railways, must be advertised at public auction before granted, and the sale of city or town rights in public properties and franchises is prohibited except under ordinance passed by three-fourths of the members elected to each branch of the Council.

Cities and towns are prohibited from issuing bonds to an amount, including existing indebtedness, exceeding 18 per cent. of their taxable real estate, present charters excepted.

No one can hold at the same time more than one county or city office.

The Supervisors are to meet at fixed periods.

Magisterial Districts remain as at present, and no new one shall contain less than thirty square miles.

EDUCATION.

The State Board of Education, that enforces the public free school system, which has heretofore consisted of the Governor, Attorney-General and the Superintendent of Public Instruction, has added to it three experienced educators, to be elected by the Senate once every four years out of a list of eligibles. One of these eligibles is to be furnished by the Board of each of the following institutions—viz.: The University, the Military Institute, the Polytechnic Institute, the State Female Normal School, the Deaf and Dumb Institute and William and Mary College. The duties of the Board are:

1. To divide the State into school divisions; to appoint each four years, and for causes remove, its Superintendent for each division, which is to consist of not less than one county or city.
2. To manage the school fund.
3. To make rules and regulations for management and conduct of the schools, subject to the General Assembly.
4. To secure text books and appliances for the schools.
5. To appoint five directors of the State Library, who will manage it and choose the librarian and employees, but the law library is to be controlled by the Supreme Court.

“The General Assembly may establish agricultural, normal, manual training and technical schools, and such grade of schools as shall be for the public good.” Well said for the new Constitution—a big drop out of the cloud forecasting refreshing showers of material progress.

It may provide for compulsory education of children between eight and twelve years. “May” does not mean “must” here—and may is good—for as population condenses, and it will, the helpless little ones, children of the Ghetto in many instances, need the strong rescuing arm of the State.

White and colored children shall not be taught in the same school. Amen!

The General Assembly is to apply the annual interest on the literary fund. One dollar of each capitation tax and an annual property tax of not less than five mills on the dollar

goes to the public free schools of primary and grammar grades for the equal benefit of all the people apportioned by school population, that vary the number of children between seven and twenty years.

Cities and towns and school districts may levy a tax of five mills on the dollar for such schools as the public welfare may require.

Each Magisterial District to be a school district, unless otherwise provided, and the school trustees are to be chosen for it as the law may provide.

PUBLIC INSTITUTIONS AND PRISONS.

There are to be hereafter the penitentiary, branch prisons and prison farms under the government and control of five directors, to be appointed by the Governor, with the advice and consent of the Senate. The superintendents and the surgeons are to be appointed and removable by the directors for misbehavior, incapacity, neglect of official duty, or acts performed without due authority of law, and the respective superintendents shall appoint and remove officers and employees under them, subject to approval of the directors.

There is to be a board of three directors for every insane hospital in the State, appointed by the Governor, and a General Board of Directors for all the hospitals, consisting of the directors of the special board.

The General Board of Directors appoints, and may remove for causes, the superintendents of the hospitals; and the Special Boards of Directors appoint the resident officials of their respective hospitals, subject to the Governor's approval, subject to the approval of the School Boards of the Directors, and the superintendent of each hospital appoints and removes all other employees.

A Commissioner of State Hospitals for the State, appointed by the Governor for four years, is to give bond, is to be official chairman of such Hospital Board, is to have established and maintained a uniform system of keepers of records and accounts, and to be responsible for all disbursements of moneys.

CORPORATIONS AND THE CORPORATION COMMISSION.

The most important of all administrative reforms in the new Constitution is contained in the Article of Corporations.

Years ago, when I was a member of the General Assembly, that body passed measures to authorize damages to the families of those who were killed by negligence, to secure the wages of railroad employees ahead of bondholders and stockholders, to subject railroad and other corporations in counties and cities to local as well as to State taxation, and a Railroad Commission, with one Commissioner, was established. There was opposition to all of these measures, which nevertheless prevailed. The first has given a remedy for a right that common law did not supply. The second has put into law the scripture, "The laborer is worthy of his hire." The third has illustrated that "equality is equity." No one desires to repeal any one of them—the best proof of their justice. And the fourth, the Railroad Commission idea, then in its swaddling clothes, has now reached the state of manhood, and the Convention recognized that it was ready for the *toga virilis*.

THE COMMISSION.

The State Corporation Commission is to consist of three members, each at a salary of \$4,000 per annum. The Commissioners are to be appointed by the Governor, subject to confirmation by the General Assembly. Their regular terms are to be six years. One of them is to have the prescribed qualification of a Supreme Court Judge. A clerk, bailiff and other clerks and officers to assist them, are provided for. Subordinate business of insurance, banking or other special branch of business may be put under the Commission by the General Assembly.

They are to be transported free by transportation companies when on official duties.

Their sessions are to be public.

After 1908 the General Assembly may provide for their election by the people.

Under general laws they are to have the duty or right:

1. To issue charters, amendments or extension for domestic corporations and license for foreign corporations.
2. To supervise, regulate and control all transportation and transmission companies in their public duties and charges therefor.
3. To prescribe and enforce rules, charges and classification of traffic.
4. To require of such companies all such public service, facilities and conveniences as may be reasonable and just.
5. To prevent unjust or unreasonable discriminations.
6. To inspect books, newspapers of transportation and transmission companies, revise reports and statements on oath, and seek the security and accommodation of the public.
7. To give hearings upon notice to companies affected by rates or other requirements a reasonable opportunity to introduce evidence, and to publish such requirement or rule in the "Richmond press" before making, with notice of time and place for hearing objections.

They are to have the powers of a court of record to administer oaths, compel attendance of witnesses and production of papers, to enforce their orders, and punish for contempt.

Appeals to the Supreme Court are allowed, and those affecting rates, charges and classification have precedence on docket.

Larger charges for the long than the short haul and free passes to Assemblymen and State officers are forbidden. Licenses to do business in the State are required of foreign corporations. The doctrine of fellow-servant, which prohibits the employee of a railroad company from recovering damages sustained by reason of a co-employee's negligence, is abolished. Waivers of right to recover in such cases are made null and void. Laws are to be enacted to prevent such trusts, combinations and monopolies as are inimical to the public welfare.

This is but a skeleton outline of an article covering twelve pages of fine print in the new Constitution. It is specially noteworthy that the \$5 license tax on corporations will pay for this new establishment.

This article is in line with the legislative enactments of many State Legislatures, and with the provisions of several new Constitutions, and it is responsive to the demands of the new commercial and industrial age.

The subject is vast and complicated, the pathway to wise legislation upon it is but imperfectly blazed, and one would naturally incline to the opinion that any steps taken to deal with it in detail belong more appropriately to a Legislature than a Convention. But it may well be argued, on the other hand, that Legislatures are beset with so many cares, their time is so limited by most Constitutions, that a few members may often delay procedure, and the subject is of such vital importance to the shippers of the agricultural, mining, manufacturing and commercial classes, who do not stand in with the great corporations of transportation, that the Convention was justified in making this article a part of the fundamental law.

The fairest theories that ever were produced by the human mind often fail when they are operated by human agencies and come in contact with unanticipated factors that manifest themselves only by their disturbing influences. It is, therefore, a great experiment to put such powers in the hands of three men as are here reposed in the three Corporation Commissioners, and a great experiment to adopt as a constitutional rule some theories that have never been fully vindicated by practical experience. With all these discounts to the measure, it must at the same time be acknowledged that the danger from these sources is not so great as the danger of injustice to the citizen from unchecked discriminations against him, and it is hoped and believed that with fair and honest men as administrators, open public proceedings and records, with appeals and prompt hearings assured in our highest courts, and, above all, with the argus-eyed public opinion forever watchful and attentive to what so greatly concerns the public weal, it is not at all likely that any great injustice will be possible in any direction. One thing is certain, that a high-spirited and justly disposed people like our own mean no wrong to any man, whether his interests

be involved in corporate wealth or not, and it is also certain that they will not submit to any discrimination against themselves by those who conduct the great instrumentalities of transportation. The Governor has a great responsibility in selecting the Commissioners, and it is justly anticipated that he will choose men whose very names import that intelligence and strength of character that is worthy of the great trust.

RAILROAD EMPLOYEES.

The abolition of the doctrine of fellow-servant, so far as it affects the liability of the master for injuries to his servant resulting from the acts or omissions of any other servant or servants of the common master, closes the controversy that has existed in the General Assembly for years on the principle involved in this proposition. Without commenting on the particular phraseology, which seems to have been very carefully weighed, we may say that the general proposition is just, in accordance with the spirit of modern jurisprudence and with the sound policy of the law. Those who serve railroad corporations take great risks. Eight thousand of them were killed in the United States in the last fiscal year; and the protection of the lives of the public, as well as their own lives, exacts most scrupulous care on the part of those who select them. That care cannot in any way be so forcibly impressed and so firmly assured by any methods so efficient as holding the companies responsible to the employees, as well as to the public, for injuries negligently inflicted upon them. While railroads are private corporations, their very nature gives them a public relation of the closest connection with the mass of the people, and they are now become, as a rule, opulent money-making institutions. The hardship to them, if such there be, in the new rule is not so great as the hardship to the public and to the employees alike would be were it not adopted. It is, therefore, likely to be acquiesced in by the companies and to be thoroughly sustained by enlightened public sentiment.

ARTICLE 13.—TAXATION AND FINANCE.

The great subject of taxation and finance is comprehended in an elaborate article of twenty-three sections. The chief provisions are that:

1. All taxes, State or local, are to be uniform on the same class of subjects in the territory of the taxing power; but after 1913 the General Assembly may segregate the several kinds of property and specify different subjects of local and of State taxed on.
2. Taxes on incomes of \$600.00 or more; and license taxes on any business that cannot be reached by the valorem system, are authorized.
3. Real estate and tangible personality are to be assessed at market value.
4. Lands added to city or town limits may be taxed lower for ten years.
5. When there is a corporate franchise tax, shares of stock representing the business or capital of the corporation shall not be further taxed.
6. There is to be a reassessment of real estate (except that of corporations) in 1905, and every four years thereafter; and special assessment of coal and mineral lands is provided for.
7. There is a capitation tax of \$1.50 on all male adults, except military prisoners; \$1.00 to go to the free schools, according to school population, and 50 cents to go into county and city treasuries for local purposes. The General Assembly may authorize a capitation tax of \$1.00 for school or other local purposes.
8. There shall be no limitation against a State tax, but *bona fide* purchasers of property are protected.
9. For local purposes, the assessment of roadbeds, real estate, rolling stock and personal property of railways (except the franchise and non-taxable shares of stock issued by other corporations) is to be made by the Corporation Commission,

and is to be taxed by local authorities according to their assessment.

10. Railway and canal corporations are to pay an annual State franchise tax of 1 per centum on gross receipts in lieu of other taxes, license charges, including property tax, except the annual fee of \$5.00 on the charter and assessments for street or local improvements.

11. Stock of trust and security companies and banks are to be taxed according to the present system, but the values of their real estate is to be deducted from the value of the stock to prevent double taxation.

There are certain exemptions from taxation:

1. (a) Property of the State and its local division; (b) that of churches and religious bodies; (c) private burying grounds not exceeding an acre; (d) that of educational institutions and of the Virginia Historical Society; (e) that of the Young Men's Christian Association, asylums, reformatories, hospitals, nunneries, benevolent and charitable associations; (f) and that of the Society for the Preservation of Virginia Antiquities, the Confederate Memorial Literary Society and the Mount Vernon Ladies' Association.

No inheritance tax is charged against such exempts on any legacy. The Legislature may, however, if it sees fit, repeal the exemptions save that of State or local public property; and the exemptions do not apply to associations paying money or benefit on account of sickness, accident or death.

2. Property exempt from levy for debt under the poor law is not liable for the capitation tax.

The committee in their long consideration of this article were assisted by experts from other States. It is justly claimed that it simplifies the subject; prevents in some cases double taxation; will realize from railway corporations a greater revenue than ever before; and that it is after the model of progressive and thriving States.

This may all be true, and yet I could not support the article and was paired against it, being absent, sick. The uniformity and equality of taxation on all classes of property alike, save

alone that exempt on account of its public ownership or relation, are to my mind a fundamental principle of democratic government so ingrained that no plausible theory or tempting scheme can grind it out. It does not prevent license taxes for carrying on any business, whether it be railroading or practicing law.

It does not prevent a franchise tax, for a franchise is property and often of great value, and the new Constitution recognizes franchises as property in requiring the municipal governments to offer them for sale.

Neither does uniform and equal taxation stand in the way of any reform movements to realize any just tax whatsoever out of a corporation based on its properties, its earnings or its business.

I dislike to dissent from so important a work of my Conventional colleagues as the Article of Taxation and Finance, but the fact that other States have adopted such a system is not conclusive, and I had rather stand in the ancient way with a good example than follow them in a new and doubtful one. Time will test the new system. I hope it may work well, and I recognize some of its benefits. But however it may work, be it well or ill, my opinion is not likely to be changed, that uniformity and equality is the eternal base of righteousness and fairness in the distribution of public burdens, and the only one that in the long run will protect the weaker portion of society from discriminations against them.

ECONOMICS, REFORMS AND ELECTIONS.

Amongst the economic reforms are: The reduction of taxation 25 per cent. on real and personal estate; the levy of a tax of 1 per cent. on the gross receipts of railroads; the abolition of the County Courts; of one clerk in the counties that had two clerks; the levy of \$5.00 on every corporation annually as a license tax; the abolition of Spring elections in counties; the prohibition of county and municipal subscriptions to corpora-

tions; and the institution of machinery that will increase revenues and keep down taxation. It is estimated by an able member of the Convention that the economic reforms will save the State not less than \$1,000,000 per annum.

The elections of county officers that used to take place in the Spring are transferred to the Autumn and consolidated with the elections of members of the General Assembly on the Tuesday after the first Monday in November.

The Secretary of State, the Treasurer, the State Superintendent of Schools and the Commissioner of Agriculture and Immigration are chosen by the people at the same time that they elect the Governor, Lieutenant-Governor and Attorney-General. There will, therefore, be seven candidates upon the general State ticket. This scheme will relieve the General Assembly of the thankless task of selecting four State officers, and places their selection in the hands of the people. Whether it will be of that benefit to the people which it imports upon its face remains to be seen, for it makes the opportunity of the class of men who rise by expert combinations. Not all is gold that glitters. There are some miscellaneous changes that I might mention, but I will pursue the course that General Lee did on one occasion when there were many adjectives in an article prepared by another for his signature. "Strike out those adjectives," he said to his amanuensis, "and leave some for another time."

ORDAINMENT OF THE CONSTITUTION.

The Constitution was ordained on Thursday, the 29th day of May, 1902, by a vote of 48 to 38, two Republicans voting in the affirmative. Although my constituents in Campbell county were strongly for ordainment, I could not so vote, because I was a party to the expression of the Norfolk Democratic Convention of May, 1901, stating "its sense" in favor of submission of the Constitution "to the people for ratification or rejection," and, as an exponent of that doctrine, had spoken accord-

ingly from Norfolk to Washington county. My people, recognizing that I could not properly recede, refrained from instructing me.

I never questioned the constitutional power of the Convention to ordain this work, and I deem it the duty of a good citizen to submit to the powers that be. It will be recalled by those present that the debate on the subject, held in the hall of the Monticello Hotel just previous to the Norfolk Convention in 1901, opened with the dispute of the right of the Convention to submit the Constitution, and that the contention made by Hon. J. W. G. Blackstone, a distinguished Circuit Judge, largely led to the reverse expression of opinion favorable to submission.

There was undoubted force in Judge Blackstone's argument against the power to submit, for it is in line with the letter of the Underwood Constitution. But it should be remembered that while the power of a Constitutional Convention to ordain the instrument passed by it has been recognized throughout our Virginia history, and was exercised not only by the Revolutionary Convention of 1776, but also by the peace-time Conventions of 1830 and 1850, which did effectually proclaim their suffrage articles, while providing for the submission of the residue to the proclaimed suffragans; it must be remembered that in Virginia conventional power has been all along recognized as co-extensive with the object and purpose for which the body is called, and as scarce less than supreme. It was from the plentitude of power, in excess of that conferred in terms by the Underwood Constitution, and not from any limitation upon its power, that the Convention could have been justified in submitting to a popular vote.

The Hon. John Randolph Tucker, better versed in our Constitutional lore than any lawyer of his day, jealous of popular rights, and distinguished in their defense as in their elucidation, has expressed his opinion in his able treatise on the Constitution in favor of the power to ordain. And apart from the historical, traditional and professional views that sustain

that power, it is plain that the Underwood Constitution, under which the Convention was called, confers it.

That instrument provides two methods of Constitutional amendment—the one by legislative procedure at two sessions of the body, and then a direct popular vote on the proposed amendment. The other method is through a legislative enactment, and has two popular votes, first on the question, "Shall a Convention be called to revise the Constitution and amend the same?" and, second, an election by the people of the delegates to the Convention. So that the people in both instances control the subject matter.

When the people of Virginia conferred on the recent Convention power not only to "revise," but also "to amend" the old Constitution, they gave it plenary authority.

What means "revise"? To review, to look at again, to re-examine, to reperuse, and derivatively to alter, and amend.

What means "amend"? Let the Century Dictionary answer: "To make a change or changes in the form of; as a bill or motion or constitution; or to alter either in construction, purpose or principle." "Revise" is tentative, "amend" is decisive and conclusive. One house of Congress or Assembly may amend a bill, but it remains a bill, for that is its nature. Both houses of Congress or Assembly may "amend" a law, and a Convention in Virginia may amend a Constitution.

It matters not that the General Assembly provided for the future submission of the new Constitution, for the reason that the old Constitution is not silent on the subject, but gives clear, specific and express power to the Convention to do the amending itself; and for the further reason that the Convention had been called by the people, and their power was conferred without restriction before the Legislature acted on the subject, and nothing that a Legislature could do could override or contravene the superior Constitutional provisions.

It matters not that Judge Jameson, or judge anybody, has written an essay against the power of a Convention to ordain. Jameson in 1862 was in opposition to a Convention in Illinois, and his writings on the subject, admitting their ability and

honesty, were prompted by and saturated with the popular feelings of the time, and he was, as it were, the advocate of a party issue.

Besides, every sovereign State has its own jurisprudence, which is respected not only in its own courts, but as well in the Supreme Court of the United States and in foreign courts, whatever be their abstract views of the question presented; and, however the matter be regarded in Illinois or elsewhere, the Virginia view of it is recorded history.

Those who love truth and right should be slow to impute any kind of perfidy to the members of the Convention because of Democratic utterances on their platform. I felt bound by them, as well as by my own utterances; but others—amounting in number to forty-eight—were differently situated. Some had notified their constituents before election of their intention to vote for ordainment in whole or in part of the new Constitution; others felt themselves obliged to act according to the view of their constituents in favor of ordainment; others were controlled by primary meetings and elections; and it is not to be forgotten that public sentiment in the largest portions of the Commonwealth manifested itself in favor of ordainment, while there were but few expressions, comparatively, against it.

Louisiana, Mississippi and Delaware have in recent years preceded Virginia in similar action without any serious question being raised as to the validity of their course, which has been matured, ratified, confirmed and rendered irrevocable by all manner of acquiescence and recognition.

When some one said to Judge Culberson, of Texas, "Judge, do you think the United States has any right to annex the Philippine Islands?" he answered, "They have done done it."

No court in the world's history has ever undone the ordained Constitution of a State, and no one need apprehend that the Constitution of Virginia will ever be undone save by the sovereign act of her own people, who may rescind and remould it by their own free will. Recognition placing it beyond peradventure has been made of it by the Governor, the executive

officers, the judges, the General Assembly, and, over all, by the people. It is "done done," and will stay done—a fact accomplished.

The Convention has become history. It fulfilled its mission. Suffrage reform and practical economies are alike established. The committee chairmen—Green, Cameron, Moore, Hunton, Brooke, McIlwaine, Fairfax, Newton (whom Fairfax succeeded by reason of his sickness), Ayers, Braxton, Anderson, Jones, Harrison, Walker, Lindsay, Withers and Stuart—devotedly and worthily discharged their tasks. The debates were up to a high standard. The decorum was almost flawless. And of the body it may justly be said it equalled its high responsibilities.

And now, invested in her new Constitutional raiment, Virginia starts the new century. Ere yet the generation that fought the Civil War has departed from the stage, and despite the loss of a third of her territory and of the unreturning brave who fell in battle, her population has so increased that it exceeds by hundreds of thousands the population with which the undivided State entered that awful struggle. Its survivors have fulfilled the Anglo-Saxon creed, that the father departing hence shall bequeath his liberties to his children. So does a kind Providence repair the ravages of man. To-day Virginia is vital in every part, and the exclamation springs to our lips as we regard her with loving pride:

"Beauty's ensign yet is red upon her cheeks,
And death's pale flag is not yet advanced there."

Under the new regime human nature will not change. The troubles of life will not cease. The moth and rust will still corrupt, and thieves break through and steal. But our burdens will be somewhat lightened. A more wholesome atmosphere surrounds us. A gentler sky smiles down upon us. A fairer landscape of boundless vistas stretches forth before us. Virginia has no bound to her aspiration save what is highest in character, in thought and in endeavor. And so let us gird our loins in good hope. Let us face the future with manly hearts, and let the word be, "Forward!"

Code of Ethics

Adopted July 24, 1889—Minutes 1889, Vol. II, Page 25.

The purity and efficiency of judicial administration, which under our system is largely governmental itself, depends as much upon the character, conduct and demeanor of attorneys in their great trust as upon the fidelity and learning of courts or the honesty and intelligence of juries.

“There is, perhaps, no profession, after that of the sacred ministry, in which a high-toned morality is more imperatively necessary than that of the law. There is certainly, without any exception, no profession in which so many temptations beset the path to swerve from the line of strict integrity; in which so many delicate and difficult questions of duty are constantly arising. There are pitfalls and mantraps at every step, and the mere youth, at the very outset of his career, needs often the prudence of self-denial, as well as the moral courage, which belong commonly to riper years. High moral principle is his only safe guide; the only torch to light his way amidst darkness and obstruction.”—*Sharswood*.

No rule will determine an attorney’s duty in the varying phases of every case. What is right and proper must, in the absence of statutory rules and an authoritative code, be ascertained in view of the peculiar facts, in the light of conscience, and the conduct of honorable and distinguished attorneys in similar cases, and by analogy to the duties enjoined by statute, and the rules of good neighborhood.

The following general rules are adopted by the Virginia State Bar Association for the guidance of its members:

Duties of Attorneys to Courts and Judicial Officers.

1. The respect enjoined by law for courts and judicial officers is exacted for the sake of the office, and not for the individual who administers it. Bad opinion of the incumbent, however well founded, cannot excuse the withholding of the respect due to the office while administering its functions.
2. The proprieties of the judicial station, in a great measure, disable the judge from defending himself against strictures upon his official conduct. For this reason, and because such criticisms tend to impair public confidence in the administration of justice, attorneys should, as a rule, refrain from published criticism of judicial conduct, especially in reference to causes in which they have been of counsel, otherwise than in courts of review, or when the conduct of the judge is necessarily involved in determining his removal from or continuance in office.
3. Marked attention and unusual hospitality to a judge, when the relations of the parties are such that they would not otherwise be extended, subject both judge and attorney to misconstruction, and should be sedulously avoided. A self-respecting independence in the discharge of the attorney's duties, which, at the same time, does not withhold the courtesy and respect due the judge's station, is the only just foundation for cordial, personal and official relations between Bench and Bar. All attempts by means beyond these to gain special personal consideration and favor of a judge are disreputable.
4. Courts and judicial officers, in the rightful exercise of their functions, should always receive the support and countenance of attorneys against unjust criticism and popular clamor; and it is an attorney's duty to give them his moral support in all proper ways, and particularly by setting a good example in his own person of obedience to law.
5. The utmost candor and fairness should characterize the dealings of attorneys with the courts and with each other.

Knowingly citing as authority an overruled case, or reading a repealed statute as in existence; knowingly misquoting the language of a decision or text-book; knowingly misstating the contents of a paper, the testimony of a witness, or the language or arguments of the opposite counsel; offering evidence which it is known the court must reject as illegal, to get it before a jury under guise of arguing its admissibility, and all kindred practices, are deceits and evasions unworthy of attorneys.

Purposely concealing or withholding in the opening arguments positions intended finally to be relied on, in order that opposite counsel may not discuss them, is unprofessional. Courts and juries look with disfavor on such practices, and are quick to suspect the weakness of the cause which has need to resort to them.

In the argument of demurrers, admission of evidence, and other questions of law, counsel should carefully refrain from "side-bar" remarks and sparring discourse to influence the jury or by-standers. Personal colloquies between counsel tend to delay, and promote unseemly wrangling, and ought to be discouraged.

6. Attorneys owe it to the courts, and the public whose business the courts transact, as well as to their own clients, to be punctual in attendance on their causes; and whenever an attorney is late, he should apologize, or explain his absence.

7. One side must always lose the cause; and it is not wise or respectful to the court for attorneys to display temper because of an adverse ruling.

Duty of Attorneys to Each Other, to Clients and the Public.

8. An attorney should strive, at all times, to uphold the honor, maintain the dignity and promote the usefulness of the profession; for it is so interwoven with the administration of justice, that whatever redounds to the good of one, advances the

other; and the attorney thus discharges, not merely an obligation to his brothers, but a high duty to the State and his fellow-man.

9. An attorney should not speak slightingly or disparagingly of his profession, or pander in any way to the unjust popular prejudices against it, and he should scrupulously refrain at all times, and in all relations of life, from availing himself of any prejudice or popular misconception against lawyers, in order to carry a point against a brother attorney.

10. Nothing has been more potential in creating and pandering to popular prejudice against lawyers as a class, and in withholding from the profession the full measure of public esteem and confidence which belong to the proper discharge of its duties, than the false claim, often set up by the unscrupulous in defence of questionable transactions, that it is an attorney's duty to do everything to succeed in his client's cause.

An attorney "owes entire devotion to the interests of his client, warm zeal in the maintenance and defence of his cause, and the exertion of the utmost skill and ability," to the end that nothing may be taken or withheld from him save by the rules of law, legally applied. No sacrifice or peril, even to loss of life itself, can absolve from the fearless discharge of his duty. Nevertheless, it is steadfastly to be borne in mind that the great trust is to be performed within, and not without, the bounds of the law which creates it. The attorney's office does not destroy man's accountability to his Creator, or loosen the duty of obedience to law, and the obligation to his neighbor; and it does not permit, much less demand, violation of law, or any manner of fraud or chicanery, for the client's sake.

11. Attorneys should fearlessly expose before the proper tribunals corrupt or dishonest conduct in the profession; and there should never be any hesitancy in accepting employment against an attorney who has wronged his client.

12. An attorney appearing or continuing as private counsel in the prosecution for a crime of which he believes the accused innocent, forswears himself. The State's attorney is criminal, if

he presses for a conviction, when upon the evidence he believes the prisoner innocent. If the evidence is not plain enough to justify a *nolle prosequi*, a public prosecutor should submit the case, with such comments as are pertinent, accompanied by a candid statement of his own doubts.

13. An attorney cannot reject the defence of a person accused of a criminal offence because he knows or believes him guilty. It is his duty, by all fair and lawful means, to present such defences as the law of the land permits, to the end that no one may be deprived of life or liberty but by due process of law.

14. An attorney must decline in a civil cause to conduct a prosecution, when satisfied that the purpose is merely to harass or injure the opposite party, or to work oppression and wrong.

15. It is a bad practice for an attorney to communicate or argue privately with the judge as to the merits of his cause.

16. Newspaper advertisements, circulars and business cards, tendering professional services to the general public, are proper; but special solicitation of particular individuals to become clients is disreputable. Indirect advertisements for business, by furnishing or inspiring editorials or press notices regarding causes in which the attorney takes part, the manner in which they were conducted, the importance of his positions, the magnitude of the interests involved, and all other like self-laudation, is of evil tendency and wholly unprofessional.

17. Newspaper publications by an attorney as to the merits of pending or anticipated litigation, call for the discussion and reply from the opposite party, tend to prevent a fair trial in the courts, and otherwise prejudice the due administration of justice. It requires a strong case to justify such publications; and, when proper, it is unprofessional to make them anonymously.

18. When an attorney is witness for his client, except as to formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the cause to other counsel. Except when essential to the ends of justice, an attorney should scrupulously avoid testifying in court in behalf of his client as to any matter.

19. Assertions, sometimes made by counsel in argument, of a personal belief of the client's innocence, or the justice of his cause, are to be discouraged.

20. It is indecent to hunt up defects in titles, and the like, and inform thereof, in order to be employed to bring suit; or to seek out a person supposed to have a cause of action, and endeavor to get a fee to litigate about it. Except where ties of blood, relationship or trust make it an attorney's duty, it is unprofessional to volunteer advice to bring a law suit. Stirring up strife and litigation is forbidden by law, and disreputable in morals.

21. Communications and confidence between client and attorney are the property and secrets of the client, and cannot be divulged except at his instance; even the death of the client does not absolve the attorney from obligation of secrecy.

22. The duty not to divulge the secrets of clients extends further than mere silence by the attorney, and forbids accepting retainers or employment afterwards from others, involving the client's interest in the matters about which the confidence was reposed. When the secrets or confidence of a former client may be availed of or be material in a subsequent suit, as the basis of any judgment which may injuriously affect his rights, the attorney cannot appear in such cause without the consent of his former client.

23. An attorney can never attack an instrument or paper drawn by him for any infirmity apparent on its face; nor for any other cause where confidence has been reposed as to the facts concerning it. Where the attorney acted as a mere scrivener, and was not consulted as to the facts, and, unknown to him, the transaction amounted to a violation of the laws, he may assail it on that ground in suits between third persons, or between parties to the instrument and strangers.

24. An attorney openly, and in his true character, may render purely professional services before committees regarding proposed legislation, and in advocacy of claims before departments

of the government, upon the same principles of ethics which justify his appearance before the courts; but it is immoral and illegal for an attorney so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason or understanding, to influence action.

25. An attorney can never represent conflicting interests in the same suit or transaction, except by express consent of all so concerned, with full knowledge of the facts. Even then such a position is embarrassing and ought to be avoided. An attorney represents conflicting interests, within the meaning of this rule, when it is his duty, in behalf of one of his clients, to contend for that which duty to other clients in the transaction requires him to oppose.

26. "It is not a desirable professional reputation to live and die with—that of a rough tongue, which makes a man to be sought out and retained to gratify the malevolent feeling of a suitor, in hearing the other side well lashed and vilified."

27. An attorney is under no obligation to minister to the malevolence or prejudice of a client in the trial or conduct of a cause. The client cannot be made the keeper of an attorney's conscience in professional matters. He cannot demand as of right that his attorney shall abuse the opposite party, or indulge in offensive personalities. The attorney, under the solemnity of his oath, must determine for himself whether such a course is essential to the ends of justice, and therefore justifiable.

28. Clients, and not their attorneys, are the litigants; and, whatever may be the ill-feeling existing between clients, it is unprofessional for attorneys to partake of it in their conduct and demeanor to each other, or to suitors in the case.

29. In the conduct of litigation, and the trial of causes, the attorneys shall try the merits of the cause, and not try each other. It is not proper to allude to, or comment upon the personal history, or mental or physical peculiarities, or idiosyncra-

sies, of opposite counsel. Personalities should always be avoided, and the utmost courtesy always extended to an honorable opponent.

30. As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite attorney to trial when he is under affliction or bereavement; forcing the trial on a particular day, to the serious injury of the opposite attorney, when no harm will result from a trial at a different time; the time allowed for signing a bill of exceptions, crossing interrogatories, and the like, the attorney must be allowed to judge. No client has a right to demand that his attorney shall be illiberal in such matters, or that he should do anything therein repugnant to his own sense of honor and propriety; and if such a course is insisted on, the attorney should retire from the cause.

31. The miscarriage to which justice is subject, and the uncertainty of predicting results, admonish attorneys to beware of bold and confident assurances to clients, especially where the employment depends upon the assurance, and the case is not plain.

32. Prompt preparation for trial, punctuality in answering letters and keeping engagements, are due from an attorney to his client, and do much to strengthen their confidence and friendship.

33. An attorney is in honor bound to disclose to the client, at the time of retainer, all the circumstances of his relation to the parties, or interest or connection with the controversy, which mightly justly influence the client in the selection of his attorney. He must decline to appear in any cause where his obligations or relations to the opposite parties will hinder or seriously embarrass the full and fearless discharge of all his duties.

34. An attorney should endeavor to obtain full knowledge of his client's cause before advising him, and is bound to give him a candid opinion of the merits and probable result of his cause. When the controversy will admit of it, he ought to seek to adjust it without litigation, if practicable.

35. Money, or other trust property, coming into the possession of the attorney should be promptly reported, and never commingled with his private property or used by him, except with the client's knowledge and consent.

36. Attorneys should, as far as possible, avoid becoming either borrowers or creditors of their clients; and they ought scrupulously to refrain from bargaining about the subject matter of the litigation, so long as the relation of attorney and client continues.

37. Natural solicitude of clients often prompts them to offer assistance of additional counsel. This should not be met, as it sometimes is, as evidence of want of confidence; but, after advising frankly with the client, it should be left to his determination.

38. Important agreements affecting the rights of clients should, as far as possible, be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made, because not reduced to writing, as required by rules of court.

39. Attorneys should not ignore known customs of practice of the Bar of a particular court, even when the law permits, without giving opposing counsel timely notice.

40. An attorney should not attempt to compromise with the opposite party without notifying his attorney, if practicable.

41. When attorneys jointly associated in a cause cannot agree as to any matter vital to the interest of their client, the course to be pursued should be left to his determination. The client's decision should be cheerfully acquiesced in, unless the nature of the difference makes it impracticable for the attorney to co-operate heartily and effectively, in which event it is his duty to be discharged.

42. An attorney ought not to engage in discussion or argument about the merits of the case with the opposite party without notice to his attorney.

43. Satisfactory relations between attorney and client are best preserved by a frank and explicit understanding at the out-

set, as to the amount of the attorney's compensation ; and, where it is possible, this should always be agreed on in advance.

44. In general, it is better to yield something to a client's dissatisfaction at the amount of the fee, though the sum be reasonable, than to engage in a law suit to justify it, which ought always to be avoided, except as a last resort to prevent imposition and fraud.

45. In fixing fees, the following elements should be considered : 1st. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite properly to conduct the cause. 2d. Whether the particular case will debar the attorney's appearance for others in cases likely to arise out of the transaction and in which there is a reasonable expectation that the attorney would otherwise be employed ; and herein of the loss of other business while employed in the particular case, and the antagonism with other clients growing out of the employment. 3d. The customary charges of the Bar for similar services. 4th. The real amount involved, and the benefit resulting from the service. 5th. Whether the compensation was contingent or assured. 6th. Is the client a regular one, retaining the attorney in all his business ? No one of these considerations is in itself controlling. They are mere guides in ascertaining what the service was really worth ; and, in fixing the amount, it should never be forgotten that the profession is a branch of the administration of justice, and not a mere money-getting trade.

46. Contingent fees may be contracted for ; but they lead to many abuses, and certain compensation is to be preferred.

47. Casual and slight services should be rendered without charge by one attorney to another in his personal cause ; but when the service goes beyond this, an attorney may be charged as other clients. Ordinary advice and services to the family of a deceased attorney should be rendered without charge in most instances, and where the circumstances make it proper to charge, the fees should generally be less than in case of other clients.

48. Witnesses and suitors should be treated with fairness and kindness. When essential to the ends of justice to arraign their conduct or testimony, it should be done without vilification or unnecessary harshness. Fierceness of manner and uncivil behavior can add nothing to the truthful dissection of a false witness's testimony, and often rob deserved strictures of proper weight.

49. It is the duty of the court and its officers to provide for the comfort of jurors. Displaying special concern for their comfort, and volunteering to ask favors for them while they are present—such as frequent motions to adjourn trials, or take a recess, solely on the ground of the jury's fatigue or hunger, the uncomfortableness of their seats or the court-room, and the like should be avoided. Such intervention of attorneys, when proper, ought to be had privately with the court, whereby there will be no appearance of fawning upon the jury, nor ground for ill-feeling of the jury toward the court or opposite counsel, if such requests are denied. For like reasons, one attorney should never ask another, in the presence of the jury, to consent to its discharge or dispersion; and when such a request is made by the court, the attorneys, without indicating their preference, should ask to be heard after the jury withdraws. And all propositions from counsel to dispense with argument should be made and discussed out of the hearing of the jury.

50. An attorney ought never to converse privately with jurors about the case; and must avoid all unnecessary communication, even as to matters foreign to the cause, both before and during the trial. Any other course, no matter how blameless the attorney's motives, gives color for imputing evil designs, and often leads to scandal in the administration of justice.

51. An attorney assigned as counsel for an indigent prisoner ought not to ask to be excused for any light cause, and should always be a friend to the defenceless and oppressed.

Membership

<i>Year.</i>	<i>Members.</i>	<i>No.</i>
1888	Charter members.....	128
1889	Active members.....	264
1890	Active members.....	334
1891	Active members.....	388
1892	Active members.....	439
1893	Active members.....	436
	Honorary members	29 465
1894	Active members	472
	Honorary members	30 502
1895	Active members	457
	Honorary members	33 490
1896	Active members	439
	Honorary members	33 472
1897	Active members	437
	Honorary members	41 478
1898	Active members	430
	Honorary members	43 473
1899	Active members	423
	Honorary members	43 466
1900	Active members	433
	Honorary members	43 476
1901	Active members	442
	Honorary members	44 486
1902	Active members	445
	Honorary members	44 489

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Annual Meetings

	Number Registered
Inaugural Meeeting.....Virginia Beach, 1888.....	128
First Annual Meeting.....White Sulphur Springs, 1889.....	104
Second Annual Meeting.....Old Point Comfort, 1890.....	142
Third Annual Meeting.....White Sulphur Springs, 1891.....	162
Fourth Annual Meeting.....Old Point Comfort, 1892.....	179
Fifth Annual Meeting.....White Sulphur Springs, 1893.....	130
Sixth Annual Meeting.....Virginia Beach, 1894.....	185
Seventh Annual Meeting....White Sulphur Springs, 1895.....	150
Eighth Annual Meeting.....Old Point Comfort, 1896.....	162
Ninth Annual Meeting.....Hot Springs of Virginia, 1897.....	150
Tenth Annual Meeting.....Old Point Comfort, 1898.....	166
Eleventh Annual Meeting....Hot Springs of Virginia, 1899.....	120
Twelfth Annual Meeting....Old Point Comfort, 1900.....	159
Thirteenth Annual Meeting..White Sulphur Springs, 1901.....	117
Fourteenth Annual Meeting..Hot Springs of Virginia, 1902.....	129

Presidents' Addresses

<i>Year.</i>	<i>Name.</i>	<i>Subject.</i>
1889	WILLIAM J. ROBERTSON . . .	{ "Law Reform."
1890	R. G. H. KEAN	{ "The Tendency to Abuse of Corporate Franchises."
1891	EDWARD C. BURKS	{ "Code of 1887, Revisor's Report."
1892	JOHN RANDOLPH TUCKER . . .	{ "Reforms in the Civil Procedure of the State."
1893	R. T. BARTON	{ "The Punishment of Crime."
1894	WALLER R. STAPLES	{ "History of the Old County Court System of Virginia Prior to 1861."
1895	CHARLES M. BLACKFORD.	{ "Literature and Law."
1896	ROBERT M. HUGHES	{ "Contractual Exemptions from Liability on Land and Sea."
1897	WILLIAM WIRT HENRY	{ "The Trial of Aaron Burr for Treason."
1898	WILLIAM B. PETTIT.	{ "Law Reforms: Duty of the Bar."
1899	JOHN GOODE	{ "A Recurrence to Fundamental Principles."
1900	WILLIAM A. ANDERSON	{ "Virginia Constitutions."
1901	LUNSFORD L. LEWIS.	{ "Some notable cases in the Supreme Court of the United States."
1902	THOMAS C. ELDER	{ "Private Business Corporations in Virginia."

Annual Addresses

<i>Year</i>	<i>Name</i>	<i>Subject</i>
1889 .	JAMES C. CARTER	{ "Provinces of the Written and Unwritten Law."
1890 .	CHARLES F. FENNER.	{ "The Ancient Lawyer."
1891 .	WM. C. P. BRECKINRIDGE . .	{ "The Lawyer: His influence in Creating Public Opinion."
1892 .	DANIEL B. LUCAS	{ "Political Apothegms of Martin Van Buren."
1893 .	(<i>Note</i> —The Hon. FRANK H. HURD was invited and accepted, but was prevented from attending by sickness.)	
1894 .	LEONARD A. JONES	{ "Uniformity of Laws Through National and Interstate Codification."
1895 .	ROGER A. PRYOR	{ "Influence of Virginia in the Formation of the Federal Constitution."
1896 .	U. M. ROSE.	{ "The Present State of the Law."
1897 .	WOODROW WILSON	{ "Leaderless Government."
1898 .	GEORGE F. HOAR	{ "The Relation of the American Bar, as an Order or Brotherhood, to the State."
1899 .	ALEX. POPE HUMPHREY . . .	{ "The Impeachment of Sam'l Chase."
1900 .	CHARLES NOBLE GREGORY . .	{ "Bentham and the Codifiers."
1901 .	(<i>Note</i> —The Hon. WILLIAM D. GUTHRIE was invited and accepted, but was prevented from attending by sickness.)	
1902 .	JAMES B. GANTT	{ "The Nisi Prius Judge in Our Judicial System."

Papers Read

<i>Year.</i>	<i>Name.</i>	<i>Subject.</i>
1889	R. G. H. KEAN	{ "Our Judicial System: Some of Its History and Some of Its Defects."
1889	JOHN H. GUY	{ "Allowances by Courts of Fees to Counsel."
1890	RICHARD B. DAVIS	{ "Liability of Employer to Employee for Damage Resulting from Negligence of Co-Employees."
1890	R. T. W. DUKE	{ "Some thoughts on the Study and Practice of the Law."
1891	ROBERT T. BARTON	{ "The Romance of the Law."
1891	JOHN RANDOLPH TUCKER	{ "Property Rights of Baron and Feme."
1891	THOMAS NELSON PAGE	{ "The Old Virginia Lawyer."
1892	ROBERT L. PARRISH	{ "Master and Servant."
1892	JOHN W. RIELY	{ "Criminal Laws and Their Administration."
1892	JOHN B. DONOVAN	{ "Aquatic Rights."
1892	SAMUEL C. GRAHAM	{ "A Criticism of the Profession Reviewed."
1893	CHARLES A. GRAVES	{ "Extrinsic Evidence in Respect to Written Instruments."
1893	J. ALLEN WATTS	{ "Duty of the Legal Profession in Regard to Needed Changes in Legislation."

<i>Year.</i>	<i>Name.</i>	<i>Subject.</i>
1893 .	ALFRED P. THOM	{ "The Inevitable Readjustment of Law."
1894 .	WALTER D. DABNEY	{ "The Legal Evolution and Status of American Paper Money."
1895 .	GEORGE PERKINS	{ "The Lawyer's Place Among Men."
1895 .	R. WALTON MOORE	{ "Criminal Trials."
1895 .	JAMES C. LAMB*	{ "The General Court."
1896 .	ARMISTEAD R. LONG	{ "Constitutional Changes in Virginia."
1897 .	W. P. MCRAE	{ "Legislation Since the Code."
1898 .	JOHN J. WILLIAMS	{ "Some Modern Instances of a Wise Saw."
1898 .	BEVERLEY T. CRUMP	{ "Guardian Ad Litem."
1899 .	JAMES P. HARRISON	{ "Suggested changes in our Judicial System."
1899 .	MARSHALL McCORMICK	{ "Professional Ethics."
1900 .	CHARLES M. BLACKFORD	{ "The Trials and Trial of Jefferson Davis."
1900 .	R. T. IRVINE	{ "The Lawyer of the Future."
1900 .	J. ALLEN WATTS	{ "The Burden of Government Upon the Citizen."
1900 .	EUGENE C. MASSIE	{ "The Torrens System of Land Registration."
1900 .	R. M. HUGHES	{ "Some Defects in Our Present Constitution."
1901 .	JOSEPH L. KELLY	{ "The Lights and Shadows of the Law."
1901 .	CHARLES CURRY	{ "Criminals and their Treatment."
1901 .	EUGENE C. MASSIE	{ "Virginia and the Torrens System."
1901 .	S. S. P. PATTESON	{ "The Power of the State Legislature."
02 .	JOHN W. DANIEL	{ "The Constitutional Convention of 1901-'02."
1902 .	THEODORE S. GARNETT	{ "The Impeachment and Trial of Andrew Johnson."
1902 .	H. ST. GEORGE TUCKER	{ "The Enforcement of Legal Rights by a Court of Equity."

*NOTE—This paper had been prepared by the late Francis H. McGuire, and, by request of the Executive Committee, was read by Judge Lamb.

Necrology

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GUY, JOHN H.	Volume III,	page 10	Richmond
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HOWARD, JOHN.	Volume XII,	page 97	Richmond
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MURDAUGH, C. W	Volume XII,	pages 18, 49 }	
MUSHBACK, GEORGE A.	Volume XV,	page 103	Portsmouth
NASH, BENJAMIN H.	Volume VJIII,	page 88	Alexandria
NEWTON, J. K. M.	Volume XIII,	page 69	Richmond
PAGE, JOHN	Volume XV,	page 80	Newport News
PAGE, LEGH R	Volume VI,	page 84	Beaver Dam
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WALKER, JAMES A	Volume XV,	page 91	Norfolk
WALLIS, WILLIAM	Volume XIII,	page 69	Wytheville
WARREN, WILLIAM D	Volume IX,	page 78	Bristol
WICKHAM, W. F	Volume XIII,	page 71	Charlottesville
WILLIAMS, JOHN J	Volume XIII,	page 82	Richmond
WISE, BARTON H.	Volume XII,	page 74	Winchester
YANCEY, WM. L.	Volume XIV,	page 112	Richmond
	Total number of deceased members		88

Exchange List

BAR ASSOCIATIONS

<i>Name</i>	<i>President</i>	<i>Secretary</i>
Alabama State Bar Association.	LAWRENCE COOPER, Huntsville.	ALEX. TROY, Montgomery.
Alaska Bar Association.	J. S. BUGBEE, Juneau.	F. D. KELSEY, Juneau.
American Bar Association.	FRANCIS RAWLE, Philadelphia.	JOHN HINKLEY, Baltimore, Md.
Arizona Bar Association.	FRANK COX, Prescott.	H. M. WILLIS, Phoenix.
Arkansas Bar Association.	GEORGE B. ROSE, Little Rock.	H. M. ARMISTEAD, Little Rock.
Atlanta Bar Association.	JOHN L. HOPKINS, Atlanta.	W. P. HILL, Atlanta.
Bar Association of Baltimore City.	EBEN J. D. CROSS, Baltimore.	JAS. W. BOWERS, JR. Baltimore.
Bar Association of the City of Boston.	JOHN C. GRAY, Boston.	WM. F. WHARTON, Boston.
Chattanooga Bar and Law Library Association.	R. L. BRIGHT, Chattanooga.	A. W. GAINES, Chattanooga.
Chicago Bar Association.	EDWIN M. ASHCRAFT, Chicago.	HENRY W. PRICE, Chicago.
Cincinnati Law Library Association.	JUDSON HARMON, Cincinnati.	W. C. HERRON, Cincinnati.
Cincinnati Bar Association.	MOSES F. WILSON, Cincinnati.	FRANK O. SUISE, Cincinnati.
Cleveland Bar Association.	FRANK N. WILCOX, Cleveland.	T. H. BUSHNELL, Cleveland.
Colorado Bar Association.	HORACE G. LUNT, Colorado Springs.	LUCIUS W. HOYT, Denver.
State Bar Association of Connecticut.	CHAS. E. PERKINS, Hartford.	CHAS. M. JOSLYN, Hartford.
Bar Association of the District of Columbia.	CHAPIN BROWN, Washington.	PERC'L M. BROWN, Washington.

Bar Associations—Continued

<i>Name.</i>	<i>President.</i>	<i>Secretary.</i>
Detroit Bar Association.	JAMES C. DONNELLY, Detroit.	WILLIAM J. GRAY, Detroit.
Federal Bar Association of the District of Columbia.	JOHN W. DOUGLAS, Washington.	GEO. A. KING, Washington.
Georgia Bar Association.	BURTON SMITH, Atlanta.	ORVILLE A. PARK, Macon.
Idaho Bar Association.	JAMES E. BABB, Lewiston.	MILTON G. CAGE, Boise City.
Illinois State Bar Associa- tion.	MURRAY F. TULEY, Chicago.	JAS. H. MATHENY, Springfield.
Indiana State Bar Associa- tion.	T. A. PALMER, Monticello.	MERRILL MOORES, Indianapolis.
Indianapolis Bar Associa- tion.	A. C. AYERS, Indianapolis.	ERNEST R. KEITH, Indianapolis.
Iowa State Bar Associa- tion.	R. M. HAINES, Grinnell.	SAM'L S. WRIGHT, Tipton.
Bar Association of the State of Kansas.	SILAS PORTER, Kansas City.	D. A. VALENTINE, Topeka.
Kansas City Bar Association.	CLARENCE S. PALMER, Kansas City.	PORTER B. GODARD, Kansas City.
Kentucky Bar Association.	CLARENCE U. McELROY, Bowling Green.	BERNARD FLEXNER, Louisville.
Louisiana Bar Association.	BERNARD McCLOSKEY, New Orleans.	WM. S. BENEDICT, New Orleans.
Louisville Bar Association.	GEO. WEISSINGER SMITH, Louisville.	E. L. McDONALD, Louisville.
Maine State Bar Associa- tion.	JOSEPH W. SYMONDS, Portland.	LESLIE C. CORNISH, Augusta.
Maryland State Bar Associa- tion.	BENJAMIN A. RICHMOND, Cumberland.	CONWAY S. SAMS, Baltimore.
Memphis Bar and Law Library Association.	WM. M. RANDOLPH, Memphis.	E. A. COLE, Memphis.
Michigan State Bar Associa- tion.	MARK NORRIS, Grand Rapids.	W. J. LANDMAN, Grand Rapids.
Milwaukee Bar Association.	GERRY W. HAZLETON, Milwaukee.	C. I. HARING, Milwaukee.

Bar Associations—Continued

<i>Name.</i>	<i>President.</i>	<i>Secretary.</i>
Minnesota State Bar Association.	M. B. WEBBER, Winona.	W. R. BEGG, St. Paul.
Mississippi State Bar Association.	ROBERT LOWRY, Jackson.	W.M. R. HARPEE, Jackson.
Missouri State Bar Association.	J. J. RUSSELL, Charleston.	C. F. GALENKAMP, Union.
Missouri Bar Association.	W. M. WILLIAMS, Boonville.	C. F. GALENKAMP, St. Louis.
Montana Bar Association.	W. B. RODGERS, Helena.	EDW. C. RUSSELL, Helena.
New Hampshire Bar Association.	FRANK S. STREETER, Concord.	ARTHUR H. CHASE, Concord.
New Jersey State Bar Association.	DAVID J. PANCOAST, Camden	ALBERT C. WALL, Jersey City.
New Mexico Bar Association.	W. B. CHILDESS, Albuquerque.	E. L. BARTLETT, Santa Fe.
New Orleans Law Association.	JAMES McCONNELL, New Orleans.	W. S. BENEDICT, New Orleans.
Association of the Bar of the City of New York.	JOHN E. PARSONS, New York.	B. AYMAR SANDS, New York.
New York State Bar Association.	JOHN G. MILBURN, Buffalo.	F. E. WADHAMS, Albany.
North Carolina Bar Association.	CHARLES PRICE, Salisbury.	J. CRAWFORD BIGGS Durbam.
State Bar Association of North Dakota.	SETH NEWMAN, Fargo.	W. J. BURKE, Bathgate.
Ohio State Bar Association.	J. W. WARRINGTON, Cincinnati.	SMITH W. BENNETT Columbus.
Oklahoma Bar Association.	J. G. STRANG, Guthrie.	J. G. CALVERT, Guthrie.
Omaha Bar Association.	T. J. MAHONEY, Omaha.	JAMES C. KINSLER, Omaha.
Oregon Bar Association.	C. E. S. WOOD, Portland.	A. F. FLEGEL, Portland.
Pennsylvania Bar Association.	C. LARUE MUNSON, Williamsport.	W.M. H. STAAKE, Philadelphia.

Bar Associations—Continued

<i>Name.</i>	<i>President.</i>	<i>Secretary.</i>
Law Association of Philadelphia.	SAMUEL DICKINSON, Philadelphia.	W.M. C. FERGUSON, Philadelphia.
Bar Association of the City of Richmond.	W. O. SKELTON, Richmond.	JOHN HOWARD, JR. Richmond.
Rhode Island Bar Association.	FRANCIS COLWELL, Providence.	W.M. A. MORGAN, Providence.
Bar Association of St. Louis.	JAMES HAGERMAN, St. Louis.	J. A. WEBB, St. Louis.
Bar Association of San Francisco.	CHARLES W. SLACK, San Francisco.	WARREN OLNEY, JR. San Francisco.
South Carolina Bar Association.	C. A. WOODS, Marion.	HUNTER A. GIBBES, Columbia.
South Dakota Bar Association.	THOMAS STERLING, Redfield.	JNO. H. VOORHEES, Sioux Falls.
St. Louis Bar Association.	JAMES C. JONES, St. Louis.	GEORGE M. BLOCK, St. Louis.
Tennessee Bar Association.	R. E. L. MOUNTCASTLE, Morristown.	ROBERT LUSK, Nashville.
Texas Bar Association.	JAMES R. STUBBS, Galveston.	CHAS. S. MORSE, Austin.
State Bar Association of Utah.	JACOB S. BOREMAN, Salt Lake City.	CLESSON S. KINNEY Salt Lake City.
Vermont State Bar Association.	JOHN YOUNG, Newport.	JOHN H. MIMMS, St. Albans.
Washington State Bar Association.	AUSTIN MIRE, Ellensburg.	EUG. G. KREIDER, Olympia.
West Virginia Bar Association.	GEORGE E. PRICE, Charleston.	JOHN W. DAVIS, Clarksburg.
Wisconsin State Bar Association.	EDWIN E. BRYANT, Madison.	C. I. HARING, Milwaukee.
Southern New Hampshire Bar Association.	ELIJAH M. TOPLIFF, Manchester.	ARTHUR H. CHASE, Concord.

State Libraries

<i>State.</i>	<i>Capital.</i>	<i>Librarian.</i>
Alabama	Montgomery.....	James M. Riggs.
Arizona*	Phoenix.....	C. M. Bruce.
Arkansas	Little Rock.....	
California	Sacramento.....	J. L. Gillis.
Colorado	Denver.....	James A. Miller.
Connecticut.....	Hartford.....	Charles J. Hoadly, and George S. Godard, Ass't.
Delaware	Dover.....	T. W. Jefferson.
Florida	Tallahassee.....	J. B. Whitefield.
Georgia	Atlanta.....	John Milledge.
Idaho	Boise City.....	Mrs. Mary S. Wood.
Illinois	Springfield.....	A. D. Cadwallader.
Indiana	Indianapolis.....	E. L. Davidson.
Iowa	Des Moines.....	Johnson Brigham.
Kansas	Topeka.....	J. L. King.
Kentucky	Frankfort	
Louisiana	New Orleans...	Mrs. Albertine F. Philips.
Maine.....	Augusta.....	L. D. Carver.
Maryland	Annapolis.....	Annie Burton Jeffers.
Massachusetts	Boston.....	C. B. Tillinghast.
Michigan	Lansing.....	Mary C. Spencer.
Minnesota	St. Paul.....	C. A. Gilman.
Mississippi	Jackson.....	Mrs. Helen D. Bell.
Missouri	Jefferson City.....	Jennie Edwards.
Montana	Helena.....	Mrs. Laura E. Howey
Nebraska	Lincoln.....	D. A. Campbell.
Nevada	Carson City.....	Eugene Howell.
New Hampshire.....	Concord.....	A. H. Chase.
New Jersey.....	Trenton.....	Henry C. Buchanan.
New Mexico*.....	Santa Fe.....	

*Territory.

<i>State.</i>	<i>Capital.</i>	<i>Librarian.</i>
New York.....	Albany.....	Melvil Dewey.
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North Dakota.....	Bismarck.....	Fred. Falley.
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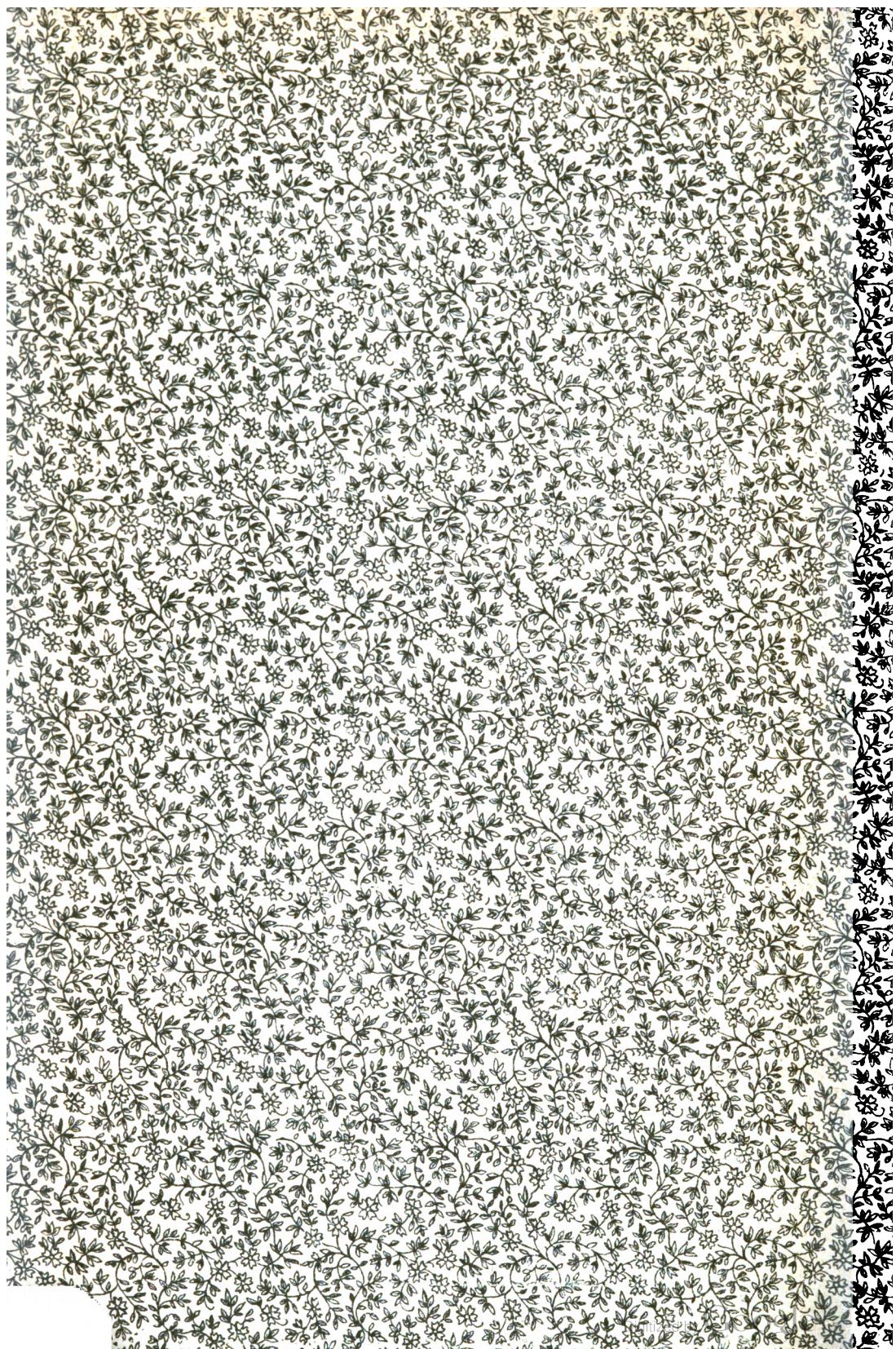
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